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Wildlife and Fisheries

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PARTS 1 TO 199

Revised as of October 1, 1985

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code of federal regulations

Wildlife and Fisheries

50

PARTS 1 TO 199

Revised as of October 1, 1985

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Cite this Code C F R

thus: 50 CFR 1.1

Explanation

The Code of Federal Regulations is a codification of the general and permanent rules published in the Federal Register by the Executive departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. Each title is divided into chapters which usually bear the name of the issuing agency. Each chapter is further subdivided into parts covering specific regulatory areas.

ISSUE DATES

Each volume of the Code is revised at least once each calendar year and issued on a quarterly basis approximately as follows:

Title 1 through Title 16	as of January 1
Title 17 through Title 27	as of April 1
Title 28 through Title 41	as of July 1
Title 42 through Title 50	as of October 1

The appropriate revision date is printed on the cover of each volume.

LEGAL STATUS

The contents of the Federal Register are required to be judicially noticed (44 U.S.C. 1507). The Code of Federal Regulations is prima facie evidence of the text of the original documents (44 U.S.C. 1510).

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John E. Byrne,
Director,
Office of the Federal Register.

October 1, 1985

THIS TITLE

Title 50—**Fish and Wildlife** is composed of two volumes. The first volume contains Parts 1-199 of the current regulations issued by the United States Fish and Wildlife Service. The second volume, containing Parts 200-End, includes the current regulations issued by the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce; International Regulatory Agencies (Fishing and Whaling), Joint Regulations (United States Fish and Wildlife Service, Department of the Interior and National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce); Endangered Species Committee regulations; Marine Mammal Commission; Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce; and the Endangered Species Scientific Authority as of October 1, 1985.

Alphabetical listings of endangered and threatened wildlife and plants appear in Part 17 of this volume.

For this volume Laurence L. Davey was Chief Editor. The Code of Federal Regulations publication program is under the direction of Martha B. Girard, assisted by Robert E. Jordan.

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Title 50—Wildlife and Fisheries

(This book contains Parts 1 to 199)

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EDITORIAL NOTE: Amendments to §§ 32.12, 32.22, and 32.32, published at 50 FR 35818, 35821, and 35822, Sept. 4, 1985, and effective October 4, 1985, have been incorporated into this volume.

CROSS REFERENCES: Commercial fishing on Red Lake Indian Reservation, Bureau of Indian Affairs: 25 CFR Part 242.

Disposal of certain wild animals in national parks, National Park Service: 36 CFR Part 10.

Exchanges of land for migratory bird or other wildlife refuges, Bureau of Land Management: 43 CFR 2200.0-1—2272.1.

Fishing in coastal waters, lakes, rivers, bays, etc., Corps of Engineers: 33 CFR Part 209.

Fishing, hunting, trapping, and protection of wildlife in national forests and wildlife refuges, Forest Service: 36 CFR Part 241, §§ 261.8, 261.9.

Fishing, hunting, trapping, and protection of wildlife in national parks, memorials, recreation areas, etc., National Park Service: 36 CFR 2.2 and 2.3, and Parts 7, 20.

Fishing and hunting in reservoir areas, Corps of Engineers: 36 CFR 327.8.

Free entry of animals, birds and products of American fisheries under specified conditions, Customs Service: 19 CFR 10.70—10.83.

Grazing areas for wildlife maintenance, Bureau of Land Management: 43 CFR Subpart 4110.

Making pictures, television production, or sound tracks on areas administered by the United States Fish and Wildlife Service or the National Park Service: 43 CFR 5.1.

Restricted entry of psittacine birds, Public Health Service: 42 CFR 71.161—71.166.

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SUBCHAPTER A—GENERAL PROVISIONS

PART 1—DEFINITIONS

Sec.

1.1 Meaning of terms.
1.2 Authorized representative.
1.3 Service.
1.4 Director.
1.5 Officer in Charge.
1.6 Person.
1.7 Regional director.
1.8 Secretary.

AUTHORITY: 5 U.S.C. 301.

SOURCE: 31 FR 16002, Dec. 15, 1966, unless otherwise noted.

§ 1.1 Meaning of terms.

As used in this chapter, unless separately defined, terms shall have the meaning ascribed in this part.

§ 1.2 Authorized representative.

"Authorized representative" means the subordinate official to which a principal official has delegated authority to act on a particular matter or a class of matters. The Director, U.S. Fish and Wildlife Service is frequently the authorized representative of the Secretary of the Interior, as also may be a regional director or an officer in charge of a Service field installation.

§ 1.3 Service.

"Service" means the United States Fish and Wildlife Service, Department of the Interior.

§ 1.4 Director.

"Director" means the Director, U.S. Fish and Wildlife Service or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.5 Officer in Charge.

"Officer in Charge" means any person in charge of a national fish hatchery, national wildlife refuge, research center, or other U.S. Fish and Wildlife Service installation, or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.6 Person.

"Person" means an individual, club, association, partnership, corporation, or private or public body, any one or all, as the context requires.

§ 1.7 Regional director.

"Regional director" means the official in charge of a region of the U.S. Fish and Wildlife Service or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

§ 1.8 Secretary.

"Secretary" means the Secretary of the Interior or the authorized representative of such official.

[48 FR 44833, Sept. 30, 1983]

PART 2—FIELD ORGANIZATION

Sec.

2.1 Regional offices.
2.2 Locations of regional offices.

§ 2.1 Regional offices.

The program operations of the U.S. Fish and Wildlife Service are performed at various types of field installations, such as ecological services stations, endangered species stations, fishery assistance offices, national fish hatcheries, national wildlife refuges, research laboratories and wildlife assistance offices. Generally, field installations are responsible to the regional director who has jurisdiction over Service activities in the State(s) encompassed by the region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

(5 U.S.C. 301)

[48 FR 44833, Sept. 30, 1983]

§ 2.2 Locations of regional offices.

The geographic jurisdictions and addresses of the U.S. Fish and Wildlife regional offices are as follows:

(a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon and Washington), 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

(b) Albuquerque Regional Office (Region 2—comprising the States of Arizona, New Mexico, Oklahoma and Texas), 500 Gold Avenue, SW, Room 9018 (P.O. Box 1306), Albuquerque, New Mexico 87103.

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin), Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(d) Atlanta Regional Office (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and Puerto Rico and the Virgin Islands), Richard B. Russell Federal Building, Room 1200, 75 Spring Street, SW, Atlanta, Georgia 30303.

(e) Boston Regional Office (Region 5—comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia), One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

(f) Denver Regional Office (Region 6—comprising the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), 134 Union Boulevard (P.O. Box 25486), Denver Federal Center, Denver, Colorado 80225.

(g) Alaska Regional Office (Region 7—comprising the State of Alaska), 1011 E. Tudor Road, Anchorage, Alaska 99503.

(5 U.S.C. 301)

[48 FR 44833, Sept. 30, 1983]

PART 3—NONDISCRIMINATION—CONTRACTS, PERMITS, AND USE OF FACILITIES

Sec.

3.1 Discrimination prohibited.
3.2 Federal financial assistance.
3.3 Discrimination by contractors and permittees prohibited.

AUTHORITY: 5 U.S.C. 301. Interpret or apply sec. 602, 78 Stat. 252; 42 U.S.C. 2000d-1; E.O. 10925, E.O. 11114.

SOURCE: 31 FR 16002, Dec. 15, 1966, unless otherwise noted.

§ 3.1 Discrimination prohibited.

No person shall, on the ground of race, color, creed, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to any form of discrimination or segregation under any program or activity, or in the use of any facility or accommodation of the Service.

§ 3.2 Federal financial assistance.

The provisions of 43 CFR Part 17, which implements Title VI of the Civil Rights Act of 1964, are applicable to any program or activity for which Federal financial assistance is provided under any law administered by the Service, including the programs and activities that are federally assisted under the laws listed in Appendix A of 43 CFR Part 17.

§ 3.3 Discrimination by contractors and permittees prohibited.

The provisions of Part III of Executive Order 10925 (3 CFR, 1959-1963 Comp. p. 448) and the provisions of Executive Order 11114 (3 CFR, 1959-1963 Comp. p. 774), as they may be amended, and the regulations of the President's Council on Equal Opportunity, the President's Committee on Equal Employment Opportunity, contained in 41 CFR Part 60, and the Equal Employment Opportunity Commission are applicable to all agreements, or modifications thereof, between the Service and any person for supplies, services or facilities, or for the use of any Government property, services or facilities.

(a) Any person who provides public accommodations, facilities, services, or privileges upon any land under the control or administration of the Service through a permit, contract, concession contract, or other form of agreement with the Service is prohibited from discriminating by segregation or otherwise against any person because of race, color, creed, or national origin in the furnishing or refusing to furnish such person any accommodation, facility, service, or privilege which is offered to or enjoyed by the general public, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

(b) Any person who uses, occupies, or possesses any land under the administration or control of the Service through a permit, contract, concession contract, or other form of agreement with the Bureau is prohibited, in conjunction with the acts or activities authorized or permitted by such permit, contract, or agreement, from discriminating against any employee or applicant for employment or maintaining any employment practice which discriminates in any manner because of race, color, creed, or national origin, and will agree to abide by the prohibitions against discrimination contained in the permit, contract, or agreement.

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE AND PLANTS

PART 10—GENERAL PROVISIONS

Subpart A—Introduction

Sec.
10.1 Purpose of regulations.
10.2 Scope of regulations.
10.3 Other applicable laws.
10.4 When regulations apply.

Subpart B—Definitions

10.11 Scope of definitions.
10.12 Definitions.
10.13 List of Migratory Birds.

Subpart C—Addresses

10.21 Director.
10.22 Law enforcement offices.

AUTHORITY: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281; Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846; Migratory Bird Treaty Act, sec. 3, 40 Stat. 755, Bald Eagle Protection Act, sec. 2, 54 Stat. 251; Tariff Classification Act of 1962, sec. 102, 76 Stat. 73-74, 19 U.S.C. 1202, Schedule 1, Part 15D, Headnote. 2(d), "Tariff Schedules of the United States"; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, unless otherwise noted.

SOURCE: 38 FR 22015, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction

§ 10.1 Purpose of regulations.

The regulations of this Subchapter B are promulgated to implement the following statutes enforced by the U.S. Fish and Wildlife Service which regulate the taking, possession, transportation, sale, purchase, barter, exportation, and importation of wildlife:

Lacey Act, 18 U.S.C. 42-44.
Black Bass Act, 16 U.S.C. 851-856.
Migratory Bird Treaty Act, 16 U.S.C. 703-711.
Bald Eagle Protection Act, 16 U.S.C. 668-668d.
Tariff Classification Act of 1962, 19 U.S.C. 1202, (Schedule 1, Part 15D, Headnote 2, T.S.U.S.).
Endangered Species Conservation Act of 1969, 16 U.S.C. 668aa-668cc-6.
Fish and Wildlife Act of 1956, 16 U.S.C. 742a-1.
Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384, 1401-1407.

§ 10.2 Scope of regulations.

The various parts of this Subchapter B are interrelated, and particular note should be taken that the parts must be construed with reference to each other.

§ 10.3 Other applicable laws.

No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this Subchapter B. In addition, nothing in this Subchapter B, nor any permit issued under this Subchapter B, shall be construed to relieve a person from any other requirements imposed by a statute or regulation of any State or of the United States, including any applicable health, quarantine, agricultural, or customs laws or regulations, or other Service enforced statutes or regulations.

§ 10.4 When regulations apply.

The regulations of this Subchapter B shall apply to all matters arising after the effective date of such regulations, with the following exceptions:

(a) *Civil penalty proceedings.* Except as otherwise provided in § 11.25, the civil penalty assessment procedures contained in this Subchapter B shall apply only to any proceeding instituted by notice of violation dated subsequent to the effective date of these regulations, regardless of when the act or omission which is the basis of a civil penalty proceeding occurred.

(b) *Permits.* The regulations in this Subchapter B shall apply to any permit application received after the effective date of the appropriate regulations in this Subchapter B and, insofar as appropriate, to any permit which is renewed after such effective date.

[38 FR 22015, Aug. 15, 1973, as amended at 39 FR 1159, Jan. 4, 1974]

Subpart B—Definitions

§ 10.11 Scope of definitions.

In addition and subject to definitions contained in applicable statutes and subsequent parts or sections of this Subchapter B, words or their variants shall have the meanings ascribed in this subpart. Throughout this Subchapter B words in the singular form shall include the plural, words in the plural form shall include the singular, and words in the masculine form shall include the feminine.

§ 10.12 Definitions.

"Aircraft" means any contrivance used for flight in the air.

"Amphibians" means a member of the class, Amphibia, including, but not limited to, frogs, toads, and salamanders; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Animal" means an organism of the animal kingdom, as distinguished from the plant kingdom; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Birds" means a member of the class, Aves; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Service" means the United States Fish and Wildlife Service, Department of the Interior.

"Country of exportation" means the last country from which the animal was exported before importation into the United States.

"Country of origin" means the country where the animal was taken from the wild, or the country of natal origin of the animal.

"Crustacean" means a member of the class, Crustacea, including but not limited to, crayfish, lobsters, shrimps, crabs, barnacles, and some terrestrial forms; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Director" means the Director of the United States Fish and Wildlife Service, Department of the Interior, or his authorized representative.

"Endangered wildlife" means any wildlife listed in § 17.11 or § 17.12 of this subchapter.

"Fish" means a member of any of the following classes:

(1) Cyclostomata, including, but not limited to, hagfishes and lampreys;

(2) Elasmobranchii, including but not limited to, sharks, skates, and rays; and

(3) Pisces, including but not limited to trout, perch, bass, minnows, and catfish; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Fish or wildlife" means any wild animal, whether alive or dead, including without limitation any wild mammal, bird, reptile, amphibian, fish, mollusk, crustacean, arthropod, coelenterate, or other invertebrate, whether or not bred, hatched, or born in captivity, and including any part, product, egg, or offspring thereof.

"Foreign commerce" includes, among other things, any transaction (1) between persons within one foreign country, or (2) between persons in two or more foreign countries, or (3) between a person within the United States and a person in one or more foreign countries, or (4) between persons within the United States, where the fish or wildlife in question are moving in any country or countries outside the United States.

"Fossil" means the remains of an animal of past geological ages which has been preserved in the earth's crust through mineralization of the object.

"Import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the tariff laws of the United States.

"Injurious Wildlife" means any wildlife for which a permit is required under Subpart B of Part 16 of this subchapter before being imported into or shipped between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States.

"Mammal" means a member of the class, Mammalia; including any part, product, egg, or offspring, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Migratory bird" means any bird, whatever its origin and whether or not raised in captivity, which belongs to a species listed in § 10.13, or which is a mutation or a hybrid of any such species, including any part, nest, or egg of any such bird, or any product, whether or not manufactured, which consists, or is composed in whole or part, of any such bird or any part, nest, or egg thereof.

"Migratory game birds": See § 20.11 of this subchapter.

"Mollusk" means a member of the phylum, Mollusca, including but not limited to, snails, mussels, clams, oysters, scallops, abalone, squid, and octopuses; including any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"Permit" means any document so designated as a permit by the Service and signed by an authorized official of the Service.

"Person" means any individual, firm, corporation, association, partnership, club, or private body, any one or all, as the context requires.

"Plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

"Possession" means the detention and control, or the manual or ideal custody of anything which may be the subject of property, for one's use and enjoyment, either as owner or as the proprietor of a qualified right in it, and either held personally or by another who exercises it in one's place and name. Possession includes the act or state of possessing and that condition of facts under which one can exercise his power over a corporeal thing at his pleasure to the exclusion of all other persons. Possession includes constructive possession which means not actual but assumed to exist, where one claims to hold by virtue of some title, without having actual custody.

"Public" as used in referring to museums, zoological parks, and scientific or educational institutions, refers to such as are open to the general public and are either established, maintained, and operated as a governmental service or are privately endowed and organized but not operated for profit.

"Reptile" means a member of the class, Reptilia, including but not limited to, turtles, snakes, lizards, crocodiles, and alligators; including any part, product, egg, or offspring thereof, or the dead body or parts thereof, whether or not included in a manufactured product or in a processed food product.

"Secretary" means the Secretary of the Interior or his authorized representative.

"Shellfish" means an aquatic invertebrate animal having a shell, including, but not limited to, (a) an oyster, clam, or other mollusk; and (b) a lobster or other crustacean; or any part, product, egg, or offspring thereof, or the dead body or parts thereof (excluding fossils), whether or not included in a manufactured product or in a processed food product.

"State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

"Take" means to pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. (With reference to marine mammals, see Part 18 of this subchapter.)

"Transportation" means to ship, convey, carry or transport by any means whatever, and deliver or receive for such shipment, conveyance, carriage, or transportation.

"United States" means the several States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

"Whoever" means the same as person.

"Wildlife" means the same as fish or wildlife.

[38 FR 22015, Aug. 15, 1973, as amended at 42 FR 32377, June 24, 1977; 42 FR 59358, Nov. 16, 1977; 45 FR 56673, Aug. 25, 1980]

§ 10.13 List of Migratory Birds.

The following is a list of all species of migratory birds protected by the Migratory Bird Treaty Act (16 U.S.C. 703-711) and subject to the regulations on migratory birds contained in this Subchapter B of Title 50 CFR. The species listed are those protected by the Convention for the Protection of Migratory Birds, August 16, 1916, United States-Great Britain (on behalf of Canada), 39 Stat. 1702, T.S. No. 628; the Convention for the Protection of Migratory Birds and Game Mammals, February 7, 1936, United States-Mexico, 50 Stat. 1311, T.S. No. 912; the Convention for the Protection of Migratory Birds and Birds in Danger of Extinction, and Their Environment, March 4, 1972, United States-Japan, 25 U.S.T. 3329, T.I.A.S. No. 7990; and the Convention for the Conservation of Migratory Birds and Their Environment, United States-U.S.S.R., November 26, 1976, 92 Stat. 3110, T.I.A.S. 9073, 16 U.S.C. 703, 712. The species are listed two ways. In the first part of the List species are arranged alphabetically by English (common) name groups, with the scientific name following the English (common) name. All species of ducks are listed together under the heading "DUCKS". In the second part of the List, species are listed by scientific name arranged in taxonomic order. Taxonomy and nomenclature follows the American Ornithologists' Union's Check-list of North American Birds (6th Edition, 1983).

I. ALPHABETICAL LISTING

- Accentor, Siberian, *Prunella montanella*
- Albatross:
  - Black-footed, *Diomedea nigripes*
  - Laysan, *Diomedea immutabilis*
  - Short-tailed, *Diomedea albatrus*
  - Yellow-nosed, *Diomedea chlororhynchos*
- Anhinga, *Anhinga anhinga*
- Ani:
  - Groove-billed, *Crotophaga sulcirostris*
  - Smooth-billed, *Crotophaga ani*
- Auklet:
  - Cassin's, *Ptychoramphus aleuticus*
  - Crested, *Aethia cristatella*
  - Least, *Aethia pusilla*
  - Parakeet, *Cyclorrhynchus psittacula*
  - Rhinoceros, *Cerorhinca monocerata*
  - Whiskered, *Aethia pygmaea*
- Avocet, American, *Recurvirostra americana*
- Barn-Owl, Common, *Tyto alba*
- Beardless-Tyrannulet, Northern, *Camptostoma imberbe*
- Becard, Rose-throated, *Pachyramphus aglaiae*
- Bittern:
  - American, *Botaurus lentiginosus*
  - Chinese, *Ixobrychus sinensis*
  - Least, *Ixobrychus exilis*
  - Schrenk's, *Ixobrychus eurhythmus*
- Black-Hawk, Common, *Buteogallus anthracinus*
- Blackbird:
  - Brewer's, *Euphagus cyanocephalus*
  - Red-winged, *Agelaius phoeniceus*
  - Rusty, *Euphagus carolinus*
  - Tawny-shouldered, *Agelaius humeralis*
  - Tricolored, *Agelaius tricolor*
  - Yellow-headed, *Xanthocephalus xanthocephalus*
  - Yellow-shouldered, *Agelaius xanthomus*
- Bluebird:
  - Eastern, *Sialia sialis*
  - Mountain, *Sialia currucoides*
  - Western, *Sialia mexicana*
- Bluethroat, *Luscinia svecica*
- Bobolink, *Dolichonyx oryzivorus*
- Booby:
  - Blue-footed, *Sula nebouxii*
  - Brown, *Sula leucogaster*
  - Masked, *Sula dactylatra*
  - Red-footed, *Sula sula*
- Brambling, *Fringilla montifringilla*
- Brant, *Branta bernicla*
- Bufflehead (see DUCKS)
- Bullfinch:
  - Eurasian, *Pyrrhula pyrrhula*
  - Puerto Rican, *Loxigilla portoricensis*
- Bunting:
  - Indigo, *Passerina cyanea*
  - Lark, *Calamospiza melanocorys*
  - Lazuli, *Passerina amoena*
  - McKay's, *Plectrophenax hyperboreus*
  - Painted, *Passerina ciris*
  - Reed (see Reed-Bunting)
  - Rustic, *Emberiza rustica*
  - Snow, *Plectrophenax nivalis*
  - Varied, *Passerina versicolor*
- Bushtit, *Psaltriparus minimus*
- Canvasback (see DUCKS)

- Caracara, Crested, *Polyborus plancus*
- Cardinal, Northern, *Cardinalis cardinalis*
- Carib, Green-throated, *Eulampis holosericeus*
- Catbird, Gray, *Dumetella carolinensis*
- Chat, Yellow-breasted, *Icteria virens*
- Chickadee (see Tit):
  - Black-capped, *Parus atricapillus*
  - Boreal, *Parus hudsonicus*
  - Carolina, *Parus carolinensis*
  - Chestnut-backed, *Parus rufescens*
  - Mexican, *Parus sclateri*
  - Mountain, *Parus gambeli*
- Chuck-will's-widow, *Caprimulgus carolinensis*
- Condor, California, *Gymnogyps californianus*
- Coot:
  - American, *Fulica americana*
  - Caribbean, *Fulica caribaea*
  - Eurasian, *Fulica atra*
- Cormorant:
  - Brandt's, *Phalacrocorax penicillatus*
  - Double-crested, *Phalacrocorax auritus*
  - Great, *Phalacrocorax carbo*
  - Olivaceous, *Phalacrocorax olivaceus*
  - Pelagic, *Phalacrocorax pelagicus*
  - Red-faced, *Phalacrocorax urile*
- Cowbird:
  - Bronzed, *Molothrus aeneus*
  - Brown-headed, *Molothrus ater*
  - Shiny, *Molothrus bonariensis*
- Crake:
  - Corn, *Crex crex*
  - Yellow-breasted, *Porzana flaviventer*
- Crane:
  - Common, *Grus grus*
  - Sandhill, *Grus canadensis*
  - Whooping, *Grus americana*
- Creeper, Brown, *Certhia americana*
- Crossbill:
  - Red, *Loxia curvirostra*
  - White-winged, *Loxia leucoptera*
- Crow:
  - American, *Corvus brachyrhynchos*
  - Fish, *Corvus ossifragus*
  - Hawaiian, *Corvus hawaiiensis*
  - Mexican, *Corvus imparatus*
  - Northwestern, *Corvus caurinus*
  - White-necked, *Corvus leucognaphalus*
- Cuckoo:
  - Black-billed, *Coccyzus erythropthalmus*
  - Common, *Cuculus canorus*
  - Hawk (see Hawk-Cuckoo)
  - Lizard (see Lizard-Cuckoo)
  - Mangrove, *Coccyzus minor*
  - Oriental, *Cuculus saturatus*
  - Yellow-billed, *Coccyzus americanus*
- Curlew (see Whimbrel):
  - Bristle-thighed, *Numenius tahitiensis*
  - Eskimo, *Numenius borealis*
  - Far Eastern, *Numenius madagascariensis*
  - Least, *Numenius minutus*
  - Long-billed, *Numenius americanus*
- Dickcissel, *Spiza americana*
- Dipper, American, *Cinclus mexicanus*
- Dotterel, Eurasian, *Charadrius morinellus*
- Dove:
  - Ground (see Ground-Dove)
  - Inca, *Columbina inca*
  - Mourning, *Zenaida macroura*
  - Quail (see Quail-Dove)
  - White-tipped, *Leptotila verreauxi*
  - White-winged, *Zenaida asiatica*
  - Zenaida, *Zenaida aurita*
- Dovekie, *Alle alle*
- Dowitcher:
  - Long-billed, *Limnodromus scolopaceus*
  - Short-billed, *Limnodromus griseus*

Ducks

- American Black Duck, *Anas rubripes*
- Bufflehead, *Bucephala albeola*
- Canvasback, *Aythya valisineria*
- Eider:
  - Common, *Somateria mollissima*
  - King, *Somateria spectabilis*
  - Spectacled, *Somateria fischeri*
  - Steller's, *Polysticta stelleri*
- Gadwall, *Anas strepera*
- Garganey, *Anas querquedula*
- Goldeneye:
  - Barrow's, *Bucephala islandica*
  - Common, *Bucephala clangula*
- Harlequin Duck, *Histrionicus histrionicus*
- Hawaiian Duck, *Anas wyvilliana*
- Laysan Duck, *Anas laysanensis*
- Mallard, *Anas platyrhynchos*
- Masked Duck, *Oxyura dominica*
- Merganser:
  - Common, *Mergus merganser*
  - Hooded, *Lophodytes cucullatus*
  - Red-breasted, *Mergus serrator*
- Mottled Duck, *Anas fulvigula*
- Oldsquaw, *Clangula hyemalis*
- Pintail:
  - Northern, *Anas acuta*
  - White-cheeked, *Anas bahamensis*
- Pochard:
  - Baer's, *Aythya baeri*
  - Common, *Aythya ferina*
- Redhead, *Aythya americana*
- Ring-necked Duck, *Aythya collaris*
- Ruddy Duck, *Oxyura jamaicensis*
- Scaup:
  - Greater, *Aythya marila*
  - Lesser, *Aythya affinis*
- Scoter:
  - Black, *Melanitta nigra*
  - Surf, *Melanitta perspicillata*
  - White-winged, *Melanitta fusca*
- Shoveler, Northern, *Anas clypeata*
- Smew, *Mergellus albellus*
- Teal:
  - Baikal, *Anas formosa*
  - Blue-winged, *Anas discors*
  - Cinnamon, *Anas cyanoptera*
  - Falcated, *Anas falcata*
  - Green-winged, *Anas crecca*
- Tufted Duck, *Aythya fuligula*
- Whistling-Duck:
  - Black-bellied, *Dendrocygna autumnalis*
  - Fulvous, *Dendrocygna bicolor*

  - West Indian, *Dendrocygna arborea*
- Wigeon:
  - American, *Anas americana*
  - Eurasian, *Anas penelope*
- Wood Duck, *Aix sponsa*

End of Ducks

- Dunlin, *Calidris alpina*
- Eagle:
  - Bald, *Haliaeetus leucocephalus*
  - Golden, *Aquila chrysaetos*
  - Sea (see Sea-Eagle)
  - White-tailed, *Haliaeetus albicilla*
- Egret:
  - Cattle, *Bubulcus ibis*
  - Chinese, *Egretta eulophotes*
  - Great, *Casmerodius albus*
  - Plumed, *Egretta intermedia*
  - Reddish, *Egretta rufescens*
  - Snowy, *Egretta thula*
- Eider (see DUCKS)
- Elaenia, Caribbean, *Elaenia martinica*
- Emerald, Puerto Rican, *Chlorostilbon maugaeus*
- Euphonia, Antillean, *Euphonia musica*
- Falcon:
  - Aplomado, *Falco femoralis*
  - Peregrine, *Falco peregrinus*
  - Prairie, *Falco mexicanus*
- Fieldfare, *Turdus pilaris*
- Finch:
  - Cassin's, *Carpodacus cassinii*
  - House, *Carpodacus mexicanus*
  - Purple, *Carpodacus purpureus*
  - Rosy, *Leucosticte arctoa*
- Flamingo, Greater, *Phoenicopterus ruber*
- Flicker, Northern, *Colaptes auratus*
- Flycatcher:
  - Acadian, *Empidonax virescens*
  - Alder, *Empidonax alnorum*
  - Ash-throated, *Myiarchus cinerascens*
  - Brown-crested, *Myiarchus tyrannulus*
  - Buff-breasted, *Empidonax fulvifrons*
  - Dusky, *Empidonax oberholseri*
  - Dusky-capped, *Myiarchus tuberculifer*
  - Fork-tailed, *Tyrannus savana*
  - Gray, *Empidonax wrightii*
  - Gray-spotted, *Muscicapa griseisticta*
  - Great Crested, *Myiarchus crinitus*
  - Hammond's, *Empidonax hammondii*
  - Least, *Empidonax minimus*
  - Narcissus, *Muscicapa narcissina*
  - Nutting's, *Myiarchus nuttingi*
  - Olive-sided, *Contopus borealis*
  - Puerto Rican, *Myiarchus antillarum*
  - Scissor-tailed, *Tyrannus forficatus*
  - Sulphur-bellied, *Myiodynastes luteiventris*
  - Vermilion, *Pyrocephalus rubinus*
  - Western, *Empidonax difficilis*
  - Willow, *Empidonax traillii*
  - Yellow-bellied, *Empidonax flaviventris*
- Frigatebird:
  - Great, *Fregata minor*
  - Magnificent, *Fregata magnificens*
  - Lesser, *Fregata ariel*
- Fulmar, Northern, *Fulmarus glacialis*
- Gadwall (see DUCKS)
- Gallinule, Purple, *Porphyrula martinica*
- Gannet, Northern, *Sula bassanus*
- Garganey (see DUCKS)
- Gnatcatcher:
  - Black-capped, *Polioptila nigriceps*
  - Black-tailed, *Polioptila melanura*
  - Blue-gray, *Polioptila caerulea*
- Godwit:
  - Bar-tailed, *Limosa lapponica*
  - Black-tailed, *Limosa limosa*
  - Hudsonian, *Limosa haemastica*
  - Marbled, *Limosa fedoa*
- Golden-Plover, Lesser, *Pluvialis dominica*
- Goldeneye (see DUCKS)
- Goldfinch:
  - American, *Carduelis tristis*
  - Lawrence's, *Carduelis lawrencei*
  - Lesser, *Carduelis psaltria*
- Goose:
  - Barnacle, *Branta leucopsis*
  - Bean, *Anser fabalis*
  - Canada, *Branta canadensis*
  - Emperor, *Chen canagica*
  - Greater White-fronted, *Anser albifrons*
  - Hawaiian, *Nesochen sandvicensis*
  - Ross', *Chen rossii*
  - Snow, *Chen caerulescens*
- Goshawk, Northern, *Accipiter gentilis*
- Grackle:
  - Boat-tailed, *Quiscalus major*
  - Common, *Quiscalus quiscula*
  - Great-tailed, *Quiscalus mexicanus*
  - Greater Antillean, *Quiscalus niger*
- Grasshopper-Warbler, Middendorff's, *Locustella ochotensis*
- Grassquit:
  - Black-faced, *Tiaris bicolor*
  - Yellow-faced, *Tiaris olivacea*
- Grebe:
  - Eared, *Podiceps nigricollis*
  - Horned, *Podiceps auritus*
  - Least, *Tachybaptus dominicus*
  - Pied-billed, *Podilymbus podiceps*
  - Red-necked, *Podiceps grisegena*
  - Western, *Aechmophorus occidentalis*
- Greenfinch, Oriental, *Carduelis sinica*
- Greenshank, Common, *Tringa nebularia*
- Grosbeak:
  - Black-headed, *Pheucticus melanocephalus*
  - Blue, *Guiraca caerulea*
  - Crimson-collared, *Rhodothraupis celaeno*
  - Evening, *Coccothraustes vespertinus*
  - Pine, *Pinicola enucleator*
  - Rose-breasted, *Pheucticus ludovicianus*
  - Yellow, *Pheucticus chrysopeplus*
- Ground-Dove:
  - Common, *Columbina passerina*
  - Ruddy, *Columbina talpacoti*
- Guillemot:
  - Black, *Cepphus grylle*
  - Pigeon, *Cepphus columba*
- Gull:
  - Bonaparte's, *Larus philadelphia*
  - California, *Larus californicus*
  - Common Black-headed, *Larus ridibundus*

  Franklin's, *Larus pipixcan*
  Glaucous, *Larus hyperboreus*
  Glaucous-winged, *Larus glaucescens*
  Great Black-backed, *Larus marinus*
  Heermann's, *Larus heermanni*
  Herring, *Larus argentatus*
  Iceland, *Larus glaucoides*
  Ivory, *Pagophila eburnea*
  Laughing, *Larus atricilla*
  Lesser Black-backed, *Larus fuscus*
  Little, *Larus minutus*
  Mew, *Larus canus*
  Ring-billed, *Larus delawarensis*
  Ross', *Rhodostethia rosea*
  Sabine's, *Xema sabini*
  Slaty-backed, *Larus schistisagus*
  Thayer's, *Larus thayeri*
  Western, *Larus occidentalis*
  Yellow-footed, *Larus livens*
Gyrfalcon, *Falco rusticolus*
Harrier, Northern, *Circus cyaneus*
Hawfinch, *Coccothraustes coccothraustes*
Hawk:
  Asiatic Sparrow, *Accipiter gularis*
  Black (see Black-Hawk)
  Broad-winged, *Buteo platypterus*
  Cooper's, *Accipiter cooperii*
  Ferruginous, *Buteo regalis*
  Gray, *Buteo nitidus*
  Harris', *Parabuteo unicinctus*
  Hawaiian, *Buteo solitarius*
  Red-shouldered, *Buteo lineatus*
  Red-tailed, *Buteo jamaicensis*
  Rough-legged, *Buteo lagopus*
  Sharp-shinned, *Accipiter striatus*
  Short-tailed, *Buteo brachyurus*
  Swainson's, *Buteo swainsoni*
  White-tailed, *Buteo albicaudatus*
  Zone-tailed, *Buteo albonotatus*
Hawk-Cuckoo, Hodgson's, *Cuculus fugax*
Hawk-Owl, Northern, *Surnia ulula*
Heron:
  Great Blue, *Ardea herodias*
  Green-backed, *Butorides striatus*
  Little Blue, *Egretta caerulea*
  Night (see Night-Heron)
  Pacific Reef, *Egretta sacra*
  Tricolored, *Egretta tricolor*
Hoopoe, *Upupa epops*
House-Martin, Common, *Delichon urbica*
Hummingbird (see Carib, Emerald, Mango, Starthroat, Woodstar, Violet-ear):
  Allen's, *Selasphorus sasin*
  Anna's, *Calypte anna*
  Antillean Crested, *Orthorhynchus cristatus*
  Berylline, *Amazilia beryllina*
  Black-chinned, *Archilochus alexandri*
  Blue-throated, *Lampornis clemenciae*
  Broad-billed, *Cynanthus latirostris*
  Broad-tailed, *Selasphorus platycercus*
  Buff-bellied, *Amazilia yucatanensis*
  Calliope, *Stellula calliope*
  Costa's, *Calypte costae*
  Lucifer, *Calothorax lucifer*
  Magnificent, *Eugenes fulgens*
  Ruby-throated, *Archilochus colubris*
  Rufous, *Selasphorus rufus*
  Violet-crowned, *Amazilia violiceps*
  White-eared, *Hylocharis leucotis*
Ibis:
  Glossy, *Plegadis falcinellus*
  Scarlet, *Eudocimus ruber*
  White, *Eudocimus albus*
  White-faced, *Plegadis chihi*
Jabiru, *Jabiru mycteria*
Jacana, Northern, *Jacana spinosa*
Jaeger:
  Long-tailed, *Stercorarius longicaudus*
  Parasitic, *Stercorarius parasiticus*
  Pomarine, *Stercorarius pomarinus*
Jay:
  Blue, *Cyanocitta cristata*
  Brown, *Cyanocorax morio*
  Gray, *Perisoreus canadensis*
  Gray-breasted, *Aphelocoma ultramarina*
  Green, *Cyanocorax yncas*
  Pinyon, *Gymnorhinus cyanocephalus*
  Scrub, *Aphelocoma coerulescens*
  Steller's, *Cyanocitta stelleri*
Junco:
  Dark-eyed, *Junco hyemalis*
  Yellow-eyed, *Junco phaeonotus*
Kestrel:
  American, *Falco sparverius*
  Eurasian, *Falco tinnunculus*
Killdeer, *Charadrius vociferus*
Kingbird:
  Cassin's, *Tyrannus vociferans*
  Couch's, *Tyrannus couchii*
  Eastern, *Tyrannus tyrannus*
  Gray, *Tyrannus dominicensis*
  Loggerhead, *Tyrannus caudifasciatus*
  Thick-billed, *Tyrannus crassirostris*
  Tropical, *Tyrannus melancholicus*
  Western, *Tyrannus verticalis*
Kingfisher:
  Belted, *Ceryle alcyon*
  Green, *Chloroceryle americana*
  Ringed, *Ceryle torquata*
Kinglet:
  Golden-crowned, *Regulus satrapa*
  Ruby-crowned, *Regulus calendula*
Kiskadee, Great, *Pitangus sulphuratus*
Kite:
  American Swallow-tailed, *Elanoides forficatus*
  Black, *Milvus migrans*
  Black-shouldered, *Elanus caeruleus*
  Hook-billed, *Chondrohierax uncinatus*
  Mississippi, *Ictinia mississippiensis*
  Snail, *Rostrhamus sociabilis*
Kittiwake:
  Black-legged, *Larus tridactyla*
  Red-legged, *Larus brevirostris*
Knot:
  Great, *Calidris tenuirostris*
  Red, *Calidris canutus*
Lapwing, Northern, *Vanellus vanellus*
Lark, Horned, *Eremophila alpestris*
Limpkin, *Aramus guarauna*
Lizard-Cuckoo, Puerto Rican, *Saurothera vieilloti*

- Longspur:
  - Chestnut-collared, *Calcarius ornatus*
  - Lapland, *Calcarius lapponicus*
  - McCown's, *Calcarius mccownii*
  - Smith's *Calcarius pictus*
- Loon:
  - Arctic, *Gavia arctica*
  - Common, *Gavia immer*
  - Red-throated, *Gavia stellata*
  - Yellow-billed, *Gavia adamsii*
- Magpie:
  - Black-billed, *Pica pica*
  - Yellow-billed, *Pica nuttalli*
- Mallard (see DUCKS)
- Mango:
  - Antillean, *Anthracothorax dominicus*
  - Green, *Anthracothorax viridis*
- Martin:
  - Caribbean, *Progne dominicensis*
  - Cuban, *Progne cryptoleuca*
  - Gray-breasted, *Progne chalybea*
  - House (see House-Martin)
  - Purple, *Progne subis*
- Meadowlark:
  - Eastern, *Sturnella magna*
  - Western, *Sturnella neglecta*
- Merganser (see DUCKS)
- Merlin, *Falco columbarius*
- Mockingbird, Northern, *Mimus polyglottos*
- Moorhen, Common, *Gallinula chloropus*
- Murre:
  - Common, *Uria aalge*
  - Thick-billed, *Uria lomvia*
- Murrelet:
  - Ancient, *Synthliboramphus antiquus*
  - Craveri's, *Synthliboramphus craveri*
  - Kittlitz's, *Brachyramphus brevirostris*
  - Marbled, *Brachyramphus marmoratus*
  - Xantus', *Synthliboramphus hypoleucus*
- Needletail, White-throated, *Hirundapus caudacutus*
- Night-Heron:
  - Black-crowned, *Nycticorax nycticorax*
  - Japanese, *Nycticorax goisagi*
  - Malay, *Nycticorax melanolophus*
  - Yellow-crowned, *Nycticorax violaceus*
- Nighthawk:
  - Antillean, *Chordeiles gundlachii*
  - Common, *Chordeiles minor*
  - Lesser, *Chordeiles acutipennis*
- Nightjar:
  - Buff-collared, *Caprimulgus ridgwayi*
  - Jungle, *Caprimulgus indicus*
  - Puerto Rican, *Caprimulgus noctitherus*
- Noddy:
  - Black, *Anous minutus*
  - Blue-gray, *Procelsterna cerulea*
  - Brown, *Anous stolidus*
  - Lesser, *Anous tenuirostris*
- Nutcracker, Clark's, *Nucifraga columbiana*
- Nuthatch:
  - Brown-headed, *Sitta pusilla*
  - Pygmy, *Sitta pygmaea*
  - Red-breasted, *Sitta canadensis*
  - White-breasted, *Sitta carolinensis*
- Oldsquaw (see DUCKS)
- Oriole:
  - Altamira, *Icterus gularis*
  - Audubon's, *Icterus graduacauda*
  - Black-cowled, *Icterus dominicensis*
  - Black-vented, *Icterus wagleri*
  - Hooded, *Icterus cucullatus*
  - Northern, *Icterus galbula*
  - Orchard, *Icterus spurius*
  - Scott's, *Icterus parisorum*
  - Streak-backed, *Icterus pustulatus*
- Osprey, *Pandion haliaetus*
- Ovenbird, *Seiurus aurocapillus*
- Owl:
  - Barn (see Barn-Owl)
  - Barred, *Strix varia*
  - Boreal, *Aegolius funereus*
  - Burrowing, *Athene cunicularia*
  - Elf, *Micrathene whitneyi*
  - Flammulated, *Otus flammeolus*
  - Great Gray, *Strix nebulosa*
  - Great Horned, *Bubo virginianus*
  - Hawk (see Hawk-Owl)
  - Long-eared, *Asio otus*
  - Pygmy (see Pygmy-Owl)
  - Saw-whet (see Saw-Whet Owl)
  - Screech (see Screech-Owl)
  - Short-eared, *Asio flammeus*
  - Snowy, *Nyctea scandiaca*
  - Spotted, *Strix occidentalis*
- Oystercatcher:
  - American, *Haematopus palliatus*
  - Black, *Haematopus bachmani*
- Parula:
  - Northern, *Parula americana*
  - Tropical, *Parula pitiayumi*
- Pauraque, Common, *Nyctidromus albicollis*
- Pelican:
  - American White, *Pelecanus erythrorhynchos*
  - Brown, *Pelecanus occidentalis*
- Petrel:
  - Black-capped, *Pterodroma hasitata*
  - Bonin, *Pterodroma hypoleuca*
  - Bulwer's, *Bulweria bulwerii*
  - Cook's, *Pterodroma cookii*
  - Dark-rumped, *Pterodroma phaeopygia*
  - Herald, *Pterodroma arminjoniana*
  - Kermadec, *Pterodroma neglecta*
  - Mottled, *Pterodroma inexpectata*
  - Murphy's, *Pterodroma ultima*
  - Storm (see Storm-Petrel)
  - White-necked, *Pterodroma externa*
- Pewee:
  - Greater, *Contopus pertinax*
  - Lesser Antillean, *Contopus latirostris*
  - Wood (see Wood-Pewee)
- Phainopepla, *Phainopepla nitens*
- Phalarope:
  - Red, *Phalaropus fulicaria*
  - Red-necked, *Phalaropus lobatus*
  - Wilson's, *Phalaropus tricolor*
- Phoebe:
  - Black, *Sayornis nigricans*
  - Eastern, *Sayornis phoebe*
  - Say's, *Sayornis saya*
- Pigeon:
  - Band-tailed, *Columba fasciata*

- Plain, *Columba inornata*
- Red-billed, *Columba flavirostris*
- Scaly-naped, *Columba squamosa*
- White-crowned, *Columba leucocephala*

Pintail (see DUCKS)

Pipit:
- Pechora, *Anthus gustavi*
- Red-throated, *Anthus cervinus*
- Sprague's, *Anthus spragueii*
- Tree (see Tree-Pipit)
- Water, *Anthus spinoletta*

Plover:
- Black-bellied, *Pluvialis squatarola*
- Common Ringed, *Charadrius hiaticula*
- Golden (see Golden-Plover)
- Great Sand, *Charadrius leschenaultii*
- Little Ringed, *Charadrius dubius*
- Mongolian, *Charadrius mongolus*
- Mountain, *Charadrius montanus*
- Piping, *Charadrius melodus*
- Semipalmated, *Charadrius semipalmatus*
- Snowy, *Charadrius alexandrinus*
- Wilson's, *Charadrius wilsonia*

Pochard (see DUCKS)

Poorwill, Common, *Phalaenoptilus nuttallii*

Puffin:
- Atlantic, *Fratercula arctica*
- Horned, *Fratercula corniculata*
- Tufted, *Fratercula cirrhata*

Pygmy-Owl:
- Ferruginous, *Glaucidium brasilianum*
- Northern, *Glaucidium gnoma*

Pyrrhuloxia, *Cardinalis sinuatus*

Quail-Dove:
- Bridled, *Geotrygon mystacea*
- Key West, *Geotrygon chrysia*
- Ruddy, *Geotrygon montana*

Rail:
- Black, *Laterallus jamaicensis*
- Clapper, *Rallus longirostris*
- King, *Rallus elegans*
- Sora (see Sora)
- Virginia, *Rallus limicola*
- Yellow, *Coturnicops noveboracensis*

Raven:
- Chihuahuan, *Corvus cryptoleucus*
- Common, *Corvus corax*

Razorbill, *Alca torda*

Redhead (see DUCKS)

Redpoll:
- Common, *Carduelis flammea*
- Hoary, *Carduelis hornemanni*

Redshank, Spotted, *Tringa erythropus*

Redstart:
- American, *Setophaga ruticilla*
- Painted, *Myioborus pictus*
- Slaty-throated, *Myioborus miniatus*

Reed-Bunting:
- Common, *Emberiza schoeniculus*
- Pallas', *Emberiza pallasi*

Roadrunner, Greater, *Geococcyx californianus*

Robin:
- American, *Turdus migratorius*
- Clay-colored, *Turdus grayi*
- Rufous-backed, *Turdus rufopalliatus*

Rosefinch, Common, *Carpodacus erythrinus*

Rough-winged Swallow, Northern, *Stelgidopteryx serripennis*

Rubythroat, Siberian, *Luscinia calliope*

Ruff, *Philomachus pugnax*

Sanderling, *Calidris alba*

Sandpiper:
- Baird's, *Calidris bairdii*
- Broad-billed, *Limicola falcinellus*
- Buff-breasted, *Tryngites subruficollis*
- Common, *Actitis hypoleucos*
- Curlew, *Calidris ferruginea*
- Least, *Calidris minutilla*
- Marsh, *Tringa stagnatilis*
- Pectoral, *Calidris melanotos*
- Purple, *Calidris maritima*
- Rock, *Calidris ptilocnemis*
- Semipalmated, *Calidris pusilla*
- Sharp-tailed, *Calidris acuminata*
- Solitary, *Tringa solitaria*
- Spoonbill, *Eurynorhynchus pygmeus*
- Spotted, *Actitis macularia*
- Stilt, *Calidris himantopus*
- Terek, *Xenus cinereus*
- Upland, *Bartramia longicauda*
- Western, *Calidris mauri*
- White-rumped, *Calidris fuscicollis*
- Wood, *Tringa glareola*

Sapsucker:
- Red-breasted, *Sphyrapicus ruber*
- Williamson's, *Sphyrapicus thyroideus*
- Yellow-bellied, *Sphyrapicus varius*

Saw-whet Owl, Northern, *Aegolius acadicus*

Scaup (see DUCKS)

Scoter (see DUCKS)

Screech-Owl:
- Eastern, *Otus asio*
- Puerto Rican, *Otus nudipes*
- Western, *Otus kennicottii*
- Whiskered, *Otus trichopsis*

Sea-Eagle, Steller's, *Haliaeetus pelagicus*

Seedeater, White-collared, *Sporophila torqueola*

Shearwater:
- Audubon's, *Puffinus lherminieri*
- Black-vented, *Puffinus opisthomelas*
- Buller's, *Puffinus bulleri*
- Christmas, *Puffinus nativitatus*
- Cory's, *Calonectris diomedea*
- Flesh-footed, *Puffinus carneipes*
- Greater, *Puffinus gravis*
- Little, *Puffinus assimilis*
- Manx, *Puffinus puffinus*
- Pink-footed, *Puffinus creatopus*
- Short-tailed, *Puffinus tenuirostris*
- Sooty, *Puffinus griseus*
- Townsend's, *Puffinus auricularis*
- Wedge-tailed, *Puffinus pacificus*

Shoveler (see DUCKS)

Shrike:
- Loggerhead, *Lanius ludovicianus*
- Northern, *Lanius excubitor*

Siskin, Pine, *Carduelis pinus*

Skimmer, Black, *Rhynchops niger*

Skua:
- Great, *Catharacta skua*
- South Polar, *Catharacta maccormicki*

- Skylark, Eurasian, *Alauda arvensis*
- Smew (see DUCKS)
- Snipe:
  - Common, *Gallinago gallinago*
  - Jack, *Lymnocryptes minimus*
  - Pin-tailed, *Gallinago stenura*
  - Swinhoe's, *Gallinago megala*
- Solitaire, Townsend's, *Myadestes townsendi*
- Sora, *Porzana carolina*
- Sparrow:
  - American Tree, *Spizella arborea*
  - Bachman's, *Aimophila aestivalis*
  - Baird's, *Ammodramus bairdii*
  - Black-chinned, *Spizella atrogularis*
  - Black-throated, *Amphispiza bilineata*
  - Botteri's, *Aimophila botterii*
  - Brewer's, *Spizella breweri*
  - Cassin's, *Aimophila cassinii*
  - Chipping, *Spizella passerina*
  - Clay-colored, *Spizella pallida*
  - Field, *Spizella pusilla*
  - Five-striped, *Amphispiza quinquestriata*
  - Fox, *Passerella iliaca*
  - Golden-crowned, *Zonotrichia atricapilla*
  - Grasshopper, *Ammodramus savannarum*
  - Harris', *Zonotrichia querula*
  - Henslow's, *Ammodramus henslowii*
  - Lark, *Chondestes grammacus*
  - Le Conte's, *Ammodramus leconteii*
  - Lincoln's, *Melospiza lincolnii*
  - Olive, *Arremenops rufivirgatus*
  - Rufous-crowned, *Aimophila ruficeps*
  - Rufous-winged, *Aimophila carpalis*
  - Sage, *Amphispiza belli*
  - Savannah, *Passerculus sandwichensis*
  - Seaside, *Ammodramus maritimus*
  - Sharp-tailed, *Ammodramus caudacutus*
  - Song, *Melospiza melodia*
  - Swamp, *Melospiza georgiana*
  - Vesper, *Pooecetes gramineus*
  - White-crowned, *Zonotrichia leucophrys*
  - White-throated, *Zonotrichia albicollis*
  - Worthen's, *Spizella wortheni*
- Spoonbill, Roseate, *Ajaia ajaja*
- Starling:
  - Ashy, *Sturnus cineraceus*
  - Violet-backed, *Sturnus philippensis*
- Starthroat, Plain-capped *Heliomaster constantii,*
- Stilt, Black-necked, *Himantopus mexicanus*
- Stint:
  - Little, *Calidris minuta*
  - Long-toed, *Calidris subminuta*
  - Rufous-necked, *Calidris ruficollis*
  - Temminck's, *Calidris temminckii*
- Stork, Wood, *Mycteria americana*
- Storm-Petrel:
  - Ashy, *Oceanodroma homochroa*
  - Band-rumped, *Oceanodroma castro*
  - Black, *Oceanodroma melania*
  - Fork-tailed, *Oceanodroma furcata*
  - Leach's, *Oceanodroma leucorhoa*
  - Least, *Oceanodroma microsoma*
  - Sooty, *Oceanodroma tristrami*
  - Wedge-rumped, *Oceanodroma tethys*
  - White-faced, *Pelagadroma marina*
  - Wilson's, *Oceanites oceanicus*
- Surfbird, *Aphriza virgata*
- Swallow:
  - Bahama, *Tachycineta cyaneoviridis*
  - Bank, *Riparia riparia*
  - Barn, *Hirundo rustica*
  - Cave, *Hirundo fulva*
  - Cliff, *Hirundo pyrrhonota*
  - Rough-winged (see Rough-winged Swallow)
  - Tree, *Tachycineta bicolor*
  - Violet-green, *Tachycineta thalassina*
- Swan:
  - Trumpeter, *Cygnus buccinator*
  - Tundra, *Cygnus columbianus*
  - Whooper, *Cygnus cygnus*
- Swift:
  - Antillean Palm, *Tachornis pheonicobia*
  - Black, *Cypseloides niger*
  - Chimney, *Chaetura pelagica*
  - Common, *Apus apus*
  - Fork-tailed, *Apus pacificus*
  - Needle-tailed (see Needletail)
  - Vaux's, *Chaetura vauxi*
  - White-collared, *Streptoprocne zonaris*
  - White-throated, *Aeronautes saxatalis*
- Tanager:
  - Hepatic, *Piranga flava*
  - Puerto Rican, *Neospingus speculiferus*
  - Scarlet, *Piranga olivacea*
  - Stripe-headed, *Spindalis zena*
  - Summer, *Piranga rubra*
  - Western, *Piranga ludoviciana*
- Tattler:
  - Gray-tailed, *Heteroscelus brevipes*
  - Wandering, *Heteroscelus incanus*
- Teal (see DUCKS)
- Tern:
  - Aleutian, *Sterna aleutica*
  - Arctic, *Sterna paradisaea*
  - Black, *Chlidonias niger*
  - Black-naped, *Sterna sumatrana*
  - Bridled, *Sterna anaethetus*
  - Caspian, *Sterna caspia*
  - Common, *Sterna hirundo*
  - Elegant, *Sterna elegans*
  - Forster's, *Sterna forsteri*
  - Gray-backed, *Sterna lunata*
  - Gull-billed, *Sterna nilotica*
  - Least, *Sterna antillarum*
  - Little, *Sterna albifrons*
  - Roseate, *Sterna dougallii*
  - Royal, *Sterna maxima*
  - Sandwich, *Sterna sandvicensis*
  - Sooty, *Sterna fuscata*
  - White, *Gygis alba*
  - White-winged, *Chlidonias leucopterus*
- Thrasher:
  - Bendire's, *Toxostoma bendirei*
  - Brown, *Toxostoma rufum*
  - California, *Toxostoma redivivum*
  - Crissal, *Toxostoma crissale*
  - Curve-billed, *Toxostoma curvirostre*
  - Le Conte's, *Toxostoma lecontei*
  - Long-billed, *Toxostoma longirostre*
  - Pearly-eyed, *Margarops fuscatus*
  - Sage, *Oreoscoptes montanus*

- Thrush:
  - Aztec, *Ridgwayia pinicola*
  - Blue Rock, *Monticola solitarius*
  - Dusky, *Turdus naumanni*
  - Eye-browed, *Turdus obscurus*
  - Gray-cheeked, *Catharus minimus*
  - Hawaiian, *Phaeornis obscurus*
  - Hermit, *Catharus guttatus*
  - Red-legged, *Turdus plumbeus*
  - Small Kauai, *Phaeornis palmeri*
  - Swainson's, *Catharus ustulatus*
  - Varied, *Ixoreus naevius*
  - Wood, *Hylocichla minima*
- Tit, Siberian, *Parus cinctus*
- Titmouse:
  - Bridled, *Parus wollweberi*
  - Plain, *Parus inornatus*
  - Tufted, *Parus bicolor*
- Towhee:
  - Abert's, *Pipilo aberti*
  - Brown, *Pipilo fuscus*
  - Green-tailed, *Pipilo chlorurus*
  - Rufous-sided, *Pipilo erythrophthalmus*
- Tree-Pipit, Olive, *Anthus hodgsoni*
- Trogon:
  - Eared, *Euptilotus neoxenus*
  - Elegant, *Trogon elegans*
- Tropicbird:
  - Red-billed, *Phaethon aethereus*
  - Red-tailed, *Phaethon rubricauda*
  - White-tailed, *Phaethon lepturus*
- Turnstone:
  - Black, *Arenaria melanocephala*
  - Ruddy, *Arenaria interpres*
- Veery, *Catharus fuscescens*
- Verdin, *Auriparus flaviceps*
- Violet-Ear, Green, *Colibri thalassinus*
- Vireo:
  - Bell's *Vireo bellii*
  - Black-capped, *Vireo atricapillus*
  - Black-whiskered, *Vireo altiloquus*
  - Gray, *Vireo vicinior*
  - Hutton's, *Vireo huttoni*
  - Philadelphia, *Vireo philadelphicus*
  - Puerto Rican, *Vireo latimeri*
  - Red-eyed, *Vireo olivaceus*
  - Solitary, *Vireo solitarius*
  - Warbling, *Vireo gilvus*
  - White-eyed, *Vireo griseus*
  - Yellow-throated, *Vireo flavifrons*
- Vulture:
  - Black, *Coragyps atratus*
  - Turkey, *Cathartes aura*
- Wagtail:
  - Black-backed, *Motacilla lugens*
  - Gray, *Motacilla cinerea*
  - White, *Motacilla alba*
  - Yellow, *Motacilla flava*
- Warbler:
  - Adelaide's, *Dendroica adelaidae*
  - Arctic, *Phylloscopus borealis*
  - Bachman's *Vermivora bachmanii*
  - Bay-breasted, *Dendroica castanea*
  - Black-and-white, *Mniotilta varia*
  - Black-throated Blue, *Dendroica caerulescens*
  - Black-throated Gray, *Dendroica nigrescens*
  - Black-throated Green, *Dendroica virens*
  - Blackburnian, *Dendroica fusca*
  - Blackpoll, *Dendroica striata*
  - Blue-winged, *Vermivora pinus*
  - Canada, *Wilsonia canadensis*
  - Cape May, *Dendroica tigrina*
  - Cerulean, *Dendroica cerulea*
  - Chestnut-sided, *Dendroica pensylvanica*
  - Colima, *Vermivora crissalis*
  - Connecticut, *Oporornis agilis*
  - Elfin Woods, *Dendroica angelae*
  - Golden-cheeked, *Dendroica chrysoparia*
  - Golden-crowned, *Basileuterus culicivorus*
  - Golden-winged, *Vermivora chrysoptera*
  - Grace's, *Dendroica graciae*
  - Grasshopper (see Grasshopper-Warbler)
  - Hermit, *Dendroica occidentalis*
  - Hooded, *Wilsonia citrina*
  - Kentucky, *Oporornis formosus*
  - Kirtland's, *Dendroica kirtlandii*
  - Lucy's, *Vermivora luciae*
  - MacGillivray's, *Oporornis tolmiei*
  - Magnolia, *Dendroica magnolia*
  - Mourning, *Oporornis philadelphia*
  - Nashville, *Vermivora ruficapilla*
  - Olive, *Peucedramus taeniatus*
  - Orange-crowned, *Vermivora celata*
  - Palm, *Dendroica palmarum*
  - Parula (see Parula)
  - Pine, *Dendroica pinus*
  - Prairie, *Dendroica discolor*
  - Prothonotary, *Protonotaria citrea*
  - Red-faced, *Cardellina rubrifrons*
  - Rufous-capped, *Basileuterus rufifrons*
  - Swainson's, *Limnothlypis swainsonii*
  - Tennessee, *Vermivora peregrina*
  - Townsend's, *Dendroica townsendi*
  - Virgina's, *Vermivora virginiae*
  - Willow, *Phylloscopus trochilus*
  - Wilson's, *Wilsonia pusilla*
  - Worm-eating, *Helmitheros vermivorus*
  - Yellow, *Dendroica petechia*
  - Yellow-rumped, *Dendroica coronata*
  - Yellow-throated, *Dendroica dominica*
- Waterthrush:
  - Louisiana, *Seiurus motacilla*
  - Northern, *Seiurus noveboracensis*
- Waxwing:
  - Bohemian, *Bombycilla garrulus*
  - Cedar, *Bombycilla cedrorum*
- Wheatear, Northern, *Oenanthe oenanthe*
- Whimbrel, *Numenius phaeopus*
- Whip-poor-will, *Caprimulgus vociferus*
- Whistling-Duck (see DUCKS)
- Wigeon (see DUCKS)
- Willet, *Catoptrophorus semipalmatus*
- Wood-Pewee:
  - Eastern, *Contopus virens*
  - Western, *Contopus sordidulus*
- Woodcock:
  - American, *Scolopax minor*
  - Eurasian, *Scolopax rusticola*
- Woodpecker:
  - Acorn, *Melanerpes formicivorus*
  - Black-backed, *Picoides arcticus*
  - Downy, *Picoides pubescens*

  - Gila, *Melanerpes uropygialis*
  - Golden-fronted, *Melanerpes aurifrons*
  - Hairy, *Picoides villosus*
  - Ivory-billed, *Campephilus principalis*
  - Ladder-backed, *Picoides scalaris*
  - Lewis', *Melanerpes lewis*
  - Nuttall's, *Picoides nuttallii*
  - Pileated, *Dryocopus pileatus*
  - Puerto Rican, *Melanerpes portoricensis*
  - Red-bellied, *Melanerpes carolinus*
  - Red-cockaded, *Picoides borealis*
  - Red-headed, *Melanerpes erythrocephalus*
  - Strickland's, *Picoides stricklandi*
  - Three-toed, *Picoides tridactylus*
  - White-headed, *Picoides albolarvatus*
- Woodstar, Bahama, *Calliphlox evelynae*
- Wren:
  - Bewick's *Thryomanes bewickii*
  - Cactus, *Campylorhynchus brunneicapillus*
  - Canyon, *Catherpes mexicanus*
  - Carolina, *Thryothorus ludovicianus*
  - House, *Troglodytes aedon*
  - Marsh, *Cistothorus palustris*
  - Rock, *Salpinctes obsoletus*
  - Sedge, *Cistothorus platensis*
  - Winter, *Troglodytes troglodytes*
- Wryneck, Eurasian, *Jynx torquilla*
- Yellowlegs:
  - Greater, *Tringa melanoleuca*
  - Lesser, *Tringa flavipes*
- Yellowthroat:
  - Common, *Geothlypis trichas*
  - Gray-crowned, *Geothlypis poliocephala*

II. TAXONOMIC LISTING

ORDER GAVIIFORMES

FAMILY GAVIIDAE

Gavia stellata, Red-throated Loon
Gavia arctica, Arctic Loon
Gavia immer, Common Loon
Gavia adamsii, Yellow-billed Loon

ORDER PODICIPEDIFORMES

FAMILY PODICIPEDIDAE

Tachybaptus dominicus, Least Grebe
Podilymbus podiceps, Pied-billed Grebe
Podiceps auritus, Horned Grebe
Podiceps grisegena, Red-necked Grebe
Podiceps nigricollis, Eared Grebe
Aechmophorus occidentalis, Western Grebe

ORDER PROCELLARIIFORMES

FAMILY DIOMEDEIDAE

Diomedea albatrus, Short-tailed Albatross
Diomedea nigripes, Black-footed Albatross
Diomedea immutabilis, Laysan Albatross
Diomedea chlororhynchos, Yellow-nosed Albatross

FAMILY PROCELLARIIDAE

Fulmarus glacialis, Northern Fulmar
Pterodroma hasitata, Black-capped Petrel
Pterodroma phaeopygia, Dark-rumped Petrel
Pterodroma externa, White-necked Petrel
Pterodroma inexpectata, Mottled Petrel
Pterodroma ultima, Murphy's Petrel
Pterodroma neglecta, Kermadec Petrel
Pterodroma arminjoniana, Herald Petrel
Pterodroma cookii, Cook's Petrel
Pterodroma hypoleuca, Bonin Petrel
Bulweria bulwerii, Bulwer's Petrel
Calonectris diomedea, Cory's Shearwater
Puffinus creatopus, Pink-footed Shearwater
Puffinus carneipes, Flesh-footed Shearwater
Puffinus gravis, Greater Shearwater
Puffinus pacificus, Wedge-tailed Shearwater
Puffinus bulleri, Buller's Shearwater
Puffinus griseus, Sooty Shearwater
Puffinus tenuirostris, Short-tailed Shearwater
Puffinus nativitatis, Christmas Shearwater
Puffinus puffinus, Manx Shearwater
Puffinus opisthomelas, Black-vented Shearwater
Puffinus auricularis, Townsend's Shearwater
Puffinus assimilis, Little Shearwater
Puffinus lherminieri, Audubon's Shearwater

FAMILY HYDROBATIDAE

Oceanites oceanicus, Wilson's Storm-Petrel
Pelagodroma marina, White-faced Storm-Petrel
Oceanodroma furcata, Fork-tailed Storm-Petrel
Oceanodroma leucorhoa, Leach's Storm-Petrel
Oceanodroma homochroa, Ashy Storm-Petrel
Oceanodroma castro, Band-rumped Storm-Petrel
Oceanodroma tethys, Wedge-rumped Storm-Petrel
Oceanodroma melania, Black Storm-Petrel
Oceanodroma tristrami, Sooty Storm-Petrel
Oceanodroma microsoma, Least Storm-Petrel

ORDER PELECANIFORMES

FAMILY PHAETHONTIDAE

Phaethon lepturus, White-tailed Tropicbird
Phaethon aethereus, Red-billed Tropicbird
Phaethon rubricauda, Red-tailed Tropicbird

FAMILY SULIDAE

Sula dactylatra, Masked Booby
Sula nebouxii, Blue-footed Booby
Sula leucogaster, Brown Booby
Sula sula, Red-footed Booby
Sula bassanus, Northern Gannet

FAMILY PELECANIDAE

Pelecanus erythrorhynchos, American White Pelican
Pelecanus occidentalis, Brown Pelican

FAMILY PHALACROCORACIDAE

Phalacrocorax carbo, Great Cormorant
Phalacrocorax auritus, Double-crested Cormorant

Phalacrocorax olivaceus, Olivaceous Cormorant
Phalacrocorax penicillatus Brandt's Cormorant
Phalacrocorax pelagicus, Pelagic Cormorant
Phalacrocorax urile, Red-faced Cormorant

FAMILY ANHINGIDAE

Anhinga anhinga, Anhinga

FAMILY FREGATIDAE

Fregata magnificens, Magnificent Frigatebird
Fregata minor, Great Frigatebird
Fregata ariel, Lesser Frigatebird

ORDER CICONIIFORMES

FAMILY ARDEIDAE

Botaurus lentiginosus, American Bittern
Ixobrychus exilis, Least Bittern
Ixobrychus sinensis, Chinese Bittern
Ixobrychus eurhythmus, Schrenk's Bittern
Ardea herodias, Great Blue Heron
Casmerodius albus, Great Egret
Egretta eulophotes, Chinese Egret
Egretta sacra, Pacific Reef Heron
Egretta intermedia, Plumed Egret
Egretta thula, Snowy Egret
Egretta caerulea, Little Blue Heron
Egretta tricolor, Tricolored Heron
Egretta rufescens, Reddish Egret
Bubulcus ibis, Cattle Egret
Butorides striatus, Green-backed Heron
Nycticorax nycticorax, Black-crowned Night-Heron
Nycticorax melanolophus, Malay Night-Heron
Nycticorax goisagi, Japanese Night-Heron
Nycticorax violaceus, Yellow-crowned Night-Heron

FAMILY THRESKIORNITHIDAE

Eudocimus albus, White Ibis
Eudocimus ruber, Scarlet Ibis
Plegadis falcinellus, Glossy Ibis
Plegadis chihi, White-faced Ibis
Ajaia ajaja, Roseate Spoonbill

FAMILY CICONIIDAE

Jabiru mycteria, Jabiru
Mycteria americana, Wood Stork

ORDER PHOENICOPTERIFORMES

FAMILY PHOENICOPTERIDAE

Phoenicopterus ruber, Greater Flamingo

ORDER ANSERIFORMES

FAMILY ANATIDAE

Dendrocygna bicolor, Fulvous Whistling-Duck
Dendrocygna autumnalis, Black-bellied Whistling-Duck
Dendrocygna arborea, West Indian Whistling-Duck
Cygnus columbianus, Tundra Swan
Cygnus cygnus, Whooper Swan
Cygnus buccinator, Trumpeter Swan
Anser fabalis, Bean Goose
Anser albifrons, Greater White-fronted Goose
Chen caerulescens, Snow Goose
Chen rossii, Ross' Goose
Chen canagica, Emperor Goose
Branta bernicla, Brant
Branta leucopsis, Barnacle Goose
Branta canadensis, Canada Goose
Nesochen sandvicensis, Hawaiian Goose
Aix sponsa, Wood Duck
Anas crecca, Green-winged Teal
Anas formosa, Baikal Teal
Anas falcata, Falcated Teal
Anas rubripes, American Black Duck
Anas fulvigula Mottled Duck
Anas platyrhynchos, Mallard
Anas wyvilliana, Hawaiian Duck
Anas laysanensis, Laysan Duck
Anas bahamensis, White-cheeked Pintail
Anas acuta, Northern Pintail
Anas querquedula, Garganey
Anas discors, Blue-winged Teal
Anas cyanoptera, Cinnamon Teal
Anas clypeata, Northern Shoveler
Anas strepera, Gadwall
Anas penelope, Eurasian Wigeon
Anas americana, American Wigeon
Aythya ferina, Common Pochard
Aythya valisineria, Canvasback
Aythya americana, Redhead
Aythya baeri, Baer's Pochard
Aythya collaris, Ring-necked Duck
Aythya fuligula, Tufted Duck
Aythya marila, Greater Scaup
Aythya affinis, Lesser Scaup
Somateria mollissima, Common Eider
Somateria spectabilis, King Eider
Somateria fischeri, Spectacled Eider
Polysticta stelleri, Steller's Eider
Histrionicus histrionicus, Harlequin Duck
Clangula hyemalis, Oldsquaw
Melanitta nigra, Black Scoter
Melanitta perspicillata, Surf Scoter
Melanitta fusca, White-winged Scoter
Bucephala clangula, Common Goldeneye
Bucephala islandica, Barrow's Goldeneye
Bucephala albeola, Bufflehead
Mergellus albellus, Smew
Lophodytes cucullatus, Hooded Merganser
Mergus merganser, Common Merganser
Mergus serrator, Red-breasted Merganser
Oxyura jamaicensis, Ruddy Duck
Oxyura dominica, Masked Duck

ORDER FALCONIFORMES

FAMILY CATHARTIDAE

Coragyps atratus, Black Vulture
Cathartes aura, Turkey Vulture
Gymnogyps californianus, California Condor

FAMILY ACCIPITRIDAE

Pandion haliaetus, Osprey
Chondrohierax uncinatus, Hook-billed Kite
Elanoides forficatus, American Swallow-tailed Kite
Elanus caeruleus, Black-shouldered Kite
Rostrhamus sociabilis, Snail Kite
Ictinia mississippiensis, Mississippi Kite

Milvus migrans, Black Kite
Haliaeetus leucocephalus, Bald Eagle
Haliaeetus albicilla, White-tailed Eagle
Haliaeetus pelagicus, Steller's Sea-Eagle
Circus cyaneus, Northern Harrier
Accipiter gularis, Asiatic Sparrow Hawk
Accipiter striatus, Sharp-shinned Hawk
Accipiter cooperii, Cooper's Hawk
Accipiter gentilis, Northern Goshawk
Buteogallus anthracinus, Common Black-Hawk
Parabuteo unicinctus, Harris' Hawk
Buteo nitidus, Gray Hawk
Buteo lineatus, Red-shouldered Hawk
Buteo platypterus, Broad-winged Hawk
Buteo brachyurus, Short-tailed Hawk
Buteo swainsoni, Swainson's Hawk
Buteo albicaudatus, White-tailed Hawk
Buteo albonotatus, Zone-tailed Hawk
Buteo solitarius, Hawaiian Hawk
Buteo jamaicensis, Red-tailed Hawk
Buteo regalis, Ferruginous Hawk
Buteo lagopus, Rough-legged Hawk
Aquila chrysaetos, Golden Eagle

FAMILY FALCONIDAE

Polyborus plancus, Crested Caracara
Falco tinnunculus, Eurasian Kestrel
Falco sparverius, American Kestrel
Falco columbarius, Merlin
Falco femoralis, Aplomado Falcon
Falco peregrinus, Peregrine Falcon
Falco rusticolus, Gyrfalcon
Falco mexicanus, Prairie Falcon

ORDER GRUIFORMES

FAMILY RALLIDAE

Coturnicops noveboracensis, Yellow Rail
Laterallus jamaicensis, Black Rail
Crex crex, Corn Crake
Rallus longirostris, Clapper Rail
Rallus elegans, King Rail
Rallus limicola, Virginia Rail
Porzana carolina, Sora
Porzana flaviventer, Yellow-breasted Crake
Porphyrula martinica, Purple Gallinule
Gallinula chloropus, Common Moorhen
Fulica atra, Eurasian Coot
Fulica americana, American Coot
Fulica caribaea, Caribbean Coot

FAMILY ARAMIDAE

Aramus guarauna, Limpkin

FAMILY GRUIDAE

Grus canadensis, Sandhill Crane
Grus grus, Common Crane
Grus americana, Whooping Crane

ORDER CHARADRIIFORMES

FAMILY CHARADRIIDAE

Vanellus vanellus, Northern Lapwing
Pluvialis squatarola, Black-bellied Plover
Pluvialis dominica, Lesser Golden-Plover
Charadrius mongolus, Mongolian Plover
Charadrius leschenaultii, Great Sand Plover
Charadrius alexandrinus, Snowy Plover
Charadrius wilsonia, Wilson's Plover
Charadrius hiaticula, Common Ringed Plover
Charadrius semipalmatus, Semipalmated Plover
Charadrius melodus, Piping Plover
Charadrius dubius, Little Ringed Plover
Charadrius vociferus, Killdeer
Charadrius montanus, Mountain Plover
Charadrius morinellus, Eurasian Dotterel

FAMILY HAEMATOPODIDAE

Haematopus palliatus, American Oystercatcher
Haematopus bachmani, Black Oystercatcher

FAMILY RECURVIROSTRIDAE

Himantopus mexicanus, Black-necked Stilt
Recurvirostra americana, American Avocet

FAMILY JACANIDAE

Jacana spinosa, Northern Jacana

FAMILY SCOLOPACIDAE

Tringa nebularia, Common Greenshank
Tringa melanoleuca, Greater Yellowlegs
Tringa flavipes, Lesser Yellowlegs
Tringa stagnatilis, Marsh Sandpiper
Tringa erythropus, Spotted Redshank
Tringa glareola, Wood Sandpiper
Tringa solitaria, Solitary Sandpiper
Catoptrophorus semipalmatus, Willet
Heteroscelus incanus, Wandering Tattler
Heteroscelus brevipes, Gray-tailed Tattler
Actitis hypoleucos, Common Sandpiper
Actitis macularia, Spotted Sandpiper
Xenus cinereus, Terek Sandpiper
Bartramia longicauda, Upland Sandpiper
Numenius minutus, Least Curlew
Numenius borealis, Eskimo Curlew
Numenius phaeopus, Whimbrel
Numenius tahitiensis, Bristle-thighed Curlew
Numenius madagascariensis, Far Eastern Curlew
Numenius americanus, Long-billed Curlew
Limosa limosa, Black-tailed Godwit
Limosa haemastica, Hudsonian Godwit
Limosa lapponica, Bar-tailed Godwit
Limosa fedoa, Marbled Godwit
Arenaria interpres, Ruddy Turnstone
Arenaria melanocephala, Black Turnstone
Aphriza virgata, Surfbird
Calidris tenuirostris, Great Knot
Calidris canutus, Red Knot
Calidris alba, Sanderling
Calidris pusilla, Semipalmated Sandpiper
Calidris mauri, Western Sandpiper
Calidris ruficollis, Rufous-necked Stint
Calidris minuta, Little Stint
Calidris temminckii, Temminck's Stint
Calidris subminuta, Long-toed Stint
Calidris minutilla, Least Sandpiper
Calidris fuscicollis, White-rumped Sandpiper
Calidris bairdii, Baird's Sandpiper
Calidris melanotos, Pectoral Sandpiper
Calidris acuminata, Sharp-tailed Sandpiper

Calidris maritima, Purple Sandpiper
Calidris ptilocnemis, Rock Sandpiper
Calidris alpina, Dunlin
Calidris ferruginea, Curlew Sandpiper
Calidris himantopus, Stilt Sandpiper
Eurynorhynchus pygmeus, Spoonbill Sandpiper
Limicola falcinellus, Broad-billed Sandpiper
Tryngites subruficollis, Buff-breasted Sandpiper
Philomachus pugnax, Ruff
Limnodromus griseus, Short-billed Dowitcher
Limnodromus scolopaceus, Long-billed Dowitcher
Lymnocryptes minimus, Jack Snipe
Gallinago gallinago, Common Snipe
Gallinago stenura, Pin-tailed Snipe
Gallinago megala, Swinhoe's Snipe
Scolopax rusticola, Eurasian Woodcock
Scolopax minor, American Woodcock
Phalaropus tricolor, Wilson's Phalarope
Phalaropus lobatus, Red-necked Phalarope
Phalaropus fulicaria, Red Phalarope

FAMILY LARIDAE

Stercorarius pomarinus, Pomarine Jaeger
Stercorarius parasiticus, Parasitic Jaeger
Stercorarius longicaudus, Long-tailed Jaeger
Catharacta skua, Great Skua
Catharacta maccormicki, South Polar Skua
Larus atricilla, Laughing Gull
Larus pipixcan, Franklin's Gull
Larus minutus, Little Gull
Larus ridibundus, Common Black-headed Gull
Larus philadelphia, Bonaparte's Gull
Larus heermanni, Heermann's Gull
Larus canus, Mew Gull
Larus delawarensis, Ring-billed Gull
Larus californicus, California Gull
Larus argentatus, Herring Gull
Larus thayeri, Thayer's Gull
Larus glaucoides, Iceland Gull
Larus fuscus, Lesser Black-backed Gull
Larus schistisagus, Slaty-backed Gull
Larus livens, Yellow-footed Gull
Larus occidentalis, Western Gull
Larus glaucescens, Glaucous-winged Gull
Larus hyperboreus, Glaucous Gull
Larus marinus, Great Black-backed Gull
Rissa tridactyla, Black-legged Kittiwake
Rissa brevirostris, Red-legged Kittiwake
Rhodostethia rosea, Ross' Gull
Xema sabini, Sabine's Gull
Pagophila eburnea, Ivory Gull
Sterna nilotica, Gull-billed Tern
Sterna caspia, Caspian Tern
Sterna maxima, Royal Tern
Sterna elegans, Elegant Tern
Sterna sandvicensis, Sandwich Tern
Sterna dougallii, Roseate Tern
Sterna hirundo, Common Tern
Sterna paradisaea, Arctic Tern
Sterna aleutica, Aleutian Tern
Sterna forsteri, Forster's Tern
Sterna antillarum, Least Tern
Sterna albifrons, Little Tern
Sterna sumatrana, Black-naped Tern
Sterna lunata, Gray-backed Tern
Sterna anaethetus, Bridled Tern
Sterna fuscata, Sooty Tern
Chlidonias leucopterus, White-winged Tern
Chlidonias niger, Black Tern
Anous stolidus, Brown Noddy
Anous minutus, Black Noddy
Anous tenuirostris, Lesser Noddy
Procelsterna cerulea, Blue-Gray Noddy
Gygis alba, White Tern
Rynchops niger, Black Skimmer

FAMILY ALCIDAE

Alle alle, Dovekie
Uria aalge, Common Murre
Uria lomvia, Thick-billed Murre
Alca torda, Razorbill
Cepphus grylle, Black Guillemot
Cepphus columba, Pigeon Guillemot
Brachyramphus marmoratus, Marbled Murrelet
Brachyramphus brevirostris, Kittlitz's Murrelet
Synthliboramphus hypoleucus, Xantus' Murrelet
Synthliboramphus craveri, Craveri's Murrelet
Synthliboramphus antiquus, Ancient Murrelet
Ptychoramphus aleuticus, Cassin's Auklet
Cyclorrhynchus psittacula, Parakeet Auklet
Aethia pusilla, Least Auklet
Aethia pygmaea, Whiskered Auklet
Aethia cristatella, Crested Auklet
Cerorhinca monocerata, Rhinoceros Auklet
Fratercula cirrhata, Tufted Puffin
Fratercula arctica, Atlantic Puffin
Fratercula corniculata, Horned Puffin

ORDER COLUMBIFORMES

FAMILY COLUMBIDAE

Columba squamosa, Scaly-naped Pigeon
Columba leucocephala, White-crowned Pigeon
Columba flavirostris, Red-billed Pigeon
Columba inornata, Plain Pigeon
Columba fasciata, Band-tailed Pigeon
Zenaida asiatica, White-winged Dove
Zenaida aurita, Zenaida Dove
Zenaida macroura, Mourning Dove
Columbina inca, Inca Dove
Columbina passerina, Common Ground-Dove
Columbina talpacoti, Ruddy Ground-Dove
Leptotila verreauxi, White-tipped Dove
Geotrygon chrysia, Key West Quail-Dove
Geotrygon mystacea, Bridled Quail-Dove
Geotrygon montana, Ruddy Quail-Dove

ORDER CUCULIFORMES

FAMILY CUCULIDAE

Cuculus canorus, Common Cuckoo
Cuculus saturatus, Oriental Cuckoo
Cuculus fugax, Hodgson's Hawk-Cuckoo

Coccyzus erythropthalmus, Black-billed Cuckoo
Coccyzus americanus, Yellow-billed Cuckoo
Coccyzus minor, Mangrove Cuckoo
Geococcyx californianus, Greater Roadrunner
Saurothera vieilloti, Puerto Rican Lizard-Cuckoo
Crotophaga ani, Smooth-billed Ani
Crotophaga sulcirostris, Groove-billed Ani

ORDER STRIGIFORMES

FAMILY TYTONIDAE

Tyto alba, Common Barn-Owl

FAMILY STRIGIDAE

Otus flammeolus, Flammulated Owl
Otus asio, Eastern Screech-Owl
Otus kennicottii, Western Screech-Owl
Otus trichopsis, Whiskered Screech-Owl
Otus nudipes, Puerto Rican Screech-Owl
Bubo virginianus, Great Horned Owl
Nyctea scandiaca, Snowy Owl
Surnia ulula, Northern Hawk-Owl
Glaucidium gnoma, Northern Pygmy-Owl
Glaucidium brasilianum, Ferruginous Pygmy-Owl
Micrathene whitneyi, Elf Owl
Athene cunicularia, Burrowing Owl
Strix occidentalis, Spotted Owl
Strix varia, Barred Owl
Strix nebulosa, Great Gray Owl
Asio otus, Long-eared Owl
Asio flammeus, Short-eared Owl
Aegolius funereus, Boreal Owl
Aegolius acadicus, Northern Saw-whet Owl

ORDER CAPRIMULGIFORMES

FAMILY CAPRIMULGIDAE

Chordeiles acutipennis, Lesser Nighthawk
Chordeiles minor, Common Nighthawk
Chordeiles gundlachii, Antillean Nighthawk
Nyctidromus albicollis, Common Pauraque
Phalaenoptilus nuttallii, Common Poorwill
Caprimulgus carolinensis, Chuck-will's-widow
Caprimulgus ridgwayi, Buff-collared Nightjar
Caprimulgus vociferus, Whip-poor-will
Caprimulgus noctitherus, Puerto Rican Nightjar
Caprimulgus indicus, Jungle Nightjar

ORDER APODIFORMES

FAMILY APODIDAE

Cypseloides niger, Black Swift
Streptoprocne zonaris, White-collared Swift
Chaetura pelagica, Chimney Swift
Chaetura vauxi, Vaux's Swift
Hirundapus caudacutus, White-throated Needletail
Apus apus, Common Swift
Apus pacificus, Fork-tailed Swift
Aeronautes saxatalis, White-throated Swift
Tachornis phoenicobia, Antillean Palm Swift

FAMILY TROCHILIDAE

Colibri thalassinus, Green Violet-ear
Anthracothorax dominicus, Antillean Mango
Anthracothorax viridis, Green Mango
Eulampis holosericeus, Green-throated Carib
Orthorhynchus cristatus, Antillean Crested Hummingbird
Chlorostilbon maugaeus, Puerto Rican Emerald
Cynanthus latirostris, Broad-billed Hummingbird
Hylocharis leucotis, White-eared Hummingbird
Amazilia beryllina, Berylline Hummingbird
Amazilia yucatanensis, Buff-bellied Hummingbird
Amazilia violiceps, Violet-crowned Hummingbird
Lampornis clemenciae, Blue-throated Hummingbird
Eugenes fulgens, Magnificent Hummingbird
Heliomaster constantii, Plain-capped Starthroat
Calliphlox evelynae, Bahama Woodstar
Calothorax lucifer, Lucifer Hummingbird
Archilochus colubris, Ruby-throated Hummingbird
Archilochus alexandri, Black-chinned Hummingbird
Calypte anna, Anna's Hummingbird
Calypte costae, Costa's Hummingbird
Stellula calliope, Calliope Hummingbird
Selasphorus platycercus, Broad-tailed Hummingbird
Selasphorus rufus, Rufous Hummingbird
Selasphorus sasin, Allen's Hummingbird

ORDER TROGONIFORMES

FAMILY TROGONIDAE

Trogon elegans, Elegant Trogon
Euptilotus neoxenus, Eared Trogon

ORDER CORACIIFORMES

FAMILY UPUPIDAE

Upupa epops, Hoopoe

FAMILY ALCEDINIDAE

Ceryle torquata, Ringed Kingfisher
Ceryle alcyon, Belted Kingfisher
Chloroceryle americana, Green Kingfisher

ORDER PICIFORMES

FAMILY PICIDAE

Jynx torquilla, Eurasian Wryneck
Melanerpes lewis, Lewis' Woodpecker
Melanerpes erythrocephalus, Red-headed Woodpecker
Melanerpes formicivorus, Acorn Woodpecker
Melanerpes uropygialis, Gila Woodpecker
Melanerpes aurifrons, Golden-fronted Woodpecker
Melanerpes carolinus, Red-bellied Woodpecker
Melanerpes portoricensis, Puerto Rican Woodpecker

Sphyrapicus varius, Yellow-bellied Sapsucker
Sphyrapicus ruber, Red-breasted Sapsucker
Sphyrapicus thyroideus, Williamson's Sapsucker
Picoides scalaris, Ladder-Backed Woodpecker
Picoides nuttallii, Nuttall's Woodpecker
Picoides pubescens, Downy Woodpecker
Picoides villosus, Hairy Woodpecker
Picoides stricklandi, Strickland's Woodpecker
Picoides borealis, Red-cockaded Woodpecker
Picoides albolarvatus, White-headed Woodpecker
Picoides tridactylus, Three-toed Woodpecker
Picoides arcticus, Black-backed Woodpecker
Colaptes auratus, Northern Flicker
Dryocopus pileatus, Pileated Woodpecker
Campephilus principalis, Ivory-billed Woodpecker

ORDER PASSERIFORMES

FAMILY TYRANNIDAE

Elaenia martinica, Caribbean Elaenia
Camptostoma imberbe, Northern Beardless-Tyrannulet
Contopus borealis, Olive-sided Flycatcher
Contopus pertinax, Greater Pewee
Contopus sordidulus, Western Wood-Pewee
Contopus virens, Eastern Wood-Pewee
Contopus latirostris, Lesser Antillean Pewee
Empidonax flaviventris, Yellow-bellied Flycatcher
Empidonax virescens, Acadian Flycatcher
Empidonax alnorum, Alder Flycatcher
Empidonax traillii, Willow Flycatcher
Empidonax minimus, Least Flycatcher
Empidonax hammondii, Hammond's Flycatcher
Empidonax oberholseri, Dusky Flycatcher
Empidonax wrightii, Gray Flycatcher
Empidonax difficilis, Western Flycatcher
Empidonax fulvifrons, Buff-breasted Flycatcher
Sayornis nigricans, Black Phoebe
Sayornis phoebe, Eastern Phoebe
Sayornis saya, Say's Phoebe
Pyrocephalus rubinus, Vermilion Flycatcher
Myiarchus tuberculifer, Dusky-capped Flycatcher
Myiarchus cinerascens, Ash-throated Flycatcher
Myiarchus nuttingi, Nutting's Flycatcher
Myiarchus crinitus, Great Crested Flycatcher
Myiarchus tyrannulus, Brown-crested Flycatcher
Myiarchus antillarum, Puerto Rican Flycatcher
Pitangus sulphuratus, Great Kiskadee
Myiodynastes luteiventris, Sulpher-bellied Flycatcher
Tyrannus melancholicus, Tropical Kingbird
Tyrannus couchii, Couch's Kingbird
Tyrannus vociferans, Cassin's Kingbird
Tyrannus crassirostris, Thick-billed Kingbird
Tyrannus verticalis, Western Kingbird
Tyrannus tyrannus, Eastern Kingbird
Tyrannus dominicensis, Gray Kingbird
Tyrannus caudifasciatus, Loggerhead Kingbird
Tyrannus forficatus, Scissor-tailed Flycatcher
Tyrannus savana, Fork-tailed Flycatcher
Pachyramphus aglaiae, Rose-throated Becard

FAMILY ALAUDIDAE

Alauda arvensis, Eurasian Skylark
Eremophila alpestris, Horned Lark

FAMILY HIRUNDINIDAE

Progne subis, Purple Martin
Progne cryptoleuca, Cuban Martin
Progne dominicensis, Caribbean Martin
Progne chalybea, Gray-breasted Martin
Tachycineta bicolor, Tree Swallow
Tachycineta thalassina, Violet-green Swallow
Tachycineta cyaneoviridis, Bahama Swallow
Stelgidopteryx serripennis, Northern Rough-winged Swallow
Riparia riparia, Bank Swallow
Hirundo pyrrhonota, Cliff Swallow
Hirundo fulva, Cave Swallow
Hirundo rustica, Barn Swallow
Delichon urbica, Common House-Martin

FAMILY CORVIDAE

Perisoreus canadensis, Gray Jay
Cyanocitta stelleri, Steller's Jay
Cyanocitta cristata, Blue Jay
Cyanocorax yncas, Green Jay
Cyanocorax morio, Brown Jay
Aphelocoma coerulescens, Scrub Jay
Aphelocoma ultramarina, Gray-breasted Jay
Gymnorhinus cyanocephalus, Pinyon Jay
Nucifraga columbiana, Clark's Nutcracker
Pica pica, Black-billed Magpie
Pica nuttalli, Yellow-billed Magpie
Corvus brachyrhynchos, American Crow
Corvus caurinus, Northwestern Crow
Corvus leucognaphalus, White-necked Crow
Corvus imparatus, Mexican Crow
Corvus ossifragus, Fish Crow
Corvus hawaiiensis, Hawaiian Crow
Corvus cryptoleucus, Chihuahuan Raven
Corvus corax, Common Raven

FAMILY PARIDAE

Parus atricapillus, Black-capped Chickadee
Parus carolinensis, Carolina Chickadee
Parus sclateri, Mexican Chickadee
Parus gambeli, Mountain Chickadee
Parus cinctus, Siberian Tit
Parus hudsonicus, Boreal Chickadee
Parus rufescens, Chestnut-backed Chickadee
Parus wollweberi, Bridled Titmouse

Parus inornatus, Plain Titmouse
Parus bicolor, Tufted Titmouse

FAMILY REMIZIDAE

Auriparus flaviceps, Verdin

FAMILY AEGITHALIDAE

Psaltriparus minimus, Bushtit

FAMILY SITTIDAE

Sitta canadensis, Red-breasted Nuthatch
Sitta carolinensis, White-breasted Nuthatch
Sitta pygmaea, Pygmy Nuthatch
Sitta pusilla, Brown-headed Nuthatch

FAMILY CERTHIIDAE

Certhia americana, Brown Creeper

FAMILY TROGLODYTIDAE

Campylorhynchus brunneicapillus, Cactus Wren
Salpinctes obsoletus, Rock Wren
Catherpes mexicanus, Canyon Wren
Thryothorus ludovicianus, Carolina Wren
Thryomanes bewickii, Bewick's Wren
Troglodytes aedon, House Wren
Troglodytes troglodytes, Winter Wren
Cistothorus platensis, Sedge Wren
Cistothorus palustris, Marsh Wren

FAMILY CINCLIDAE

Cinclus mexicanus, American Dipper

FAMILY MUSCICAPIDAE

SUBFAMILY SYLVIINAE

Locustella ochotensis, Middendorff's Grasshopper-Warbler
Phylloscopus borealis, Arctic Warbler
Phylloscopus trochilus, Willow Warbler
Regulus satrapa, Golden-crowned Kinglet
Regulus calendula, Ruby-crowned Kinglet
Polioptila caerulea, Blue-gray Gnatcatcher
Polioptila melanura, Black-tailed Gnatcatcher
Polioptila nigriceps, Black-capped Gnatcatcher

SUBFAMILY MUSCICAPINAE

Muscicapa griseisticta, Gray-spotted Flycatcher
Muscicapa narcissina, Narcissus Flycatcher

SUBFAMILY TURDINAE

Luscinia calliope, Siberian Rubythroat
Luscinia svecica, Bluethroat
Monticola solitarius, Blue Rock Thrush
Oenanthe oenanthe, Northern Wheatear
Sialis sialis, Eastern Bluebird
Sialis mexicana, Western Bluebird
Sialis currucoides, Mountain Bluebird
Myadestes townsendi, Townsend's Solitaire
Phaeornis obscurus, Hawaiian Thrush
Phaeornis palmeri, Small Kauai Thrush
Catharus fuscescens, Veery
Catharus minimus, Gray-cheeked Thrush
Catharus ustulatus, Swainson's Thrush
Catharus guttatus, Hermit Thrush
Hylocichla mustelina, Wood Thrush
Turdus plumbeus, Red-legged Thrush
Turdus obscurus, Eye-browed Thrush
Turdus naumanni, Dusky Thrush
Turdus pilaris, Fieldfare
Turdus grayi, Clay-colored Robin
Turdus rufopalliatus, Rufous-backed Robin
Turdus migratorius, American Robin
Ixoreus naevius, Varied Thrush
Ridgwayia pinicola, Aztec Thrush

FAMILY MIMIDAE

Dumetella carolinensis, Gray Catbird
Mimus polyglottos, Northern Mockingbird
Oreoscoptes montanus, Sage Thrasher
Toxostoma rufum, Brown Thrasher
Toxostoma longirostre, Long-billed Thrasher
Toxostoma bendirei, Bendire's Thrasher
Toxostoma curvirostre, Curve-billed Thrasher
Toxostoma redivivum, California Thrasher
Toxostoma crissale, Crissal Thrasher
Toxostoma lecontei, Le Conte's Thrasher
Margarops fuscatus, Pearly-eyed Thrasher

FAMILY PRUNELLIDAE

Prunella montanella, Siberian Accentor

FAMILY MOTACILLIDAE

Motacilla flava, Yellow Wagtail
Motacilla cinerea, Gray Wagtail
Motacilla alba, White Wagtail
Motacilla lugens, Black-backed Wagtail
Anthur hodgsoni, Olive Tree-Pipit
Anthus gustavi, Pechora Pipit
Anthus cervinus, Red-throated Pipit
Anthus spinoletta, Water Pipit
Anthus spragueii, Sprague's Pipit

FAMILY BOMBYCILLIDAE

Bombycilla garrulus, Bohemian Waxwing
Bombycilla cedrorum, Cedar Waxwing

FAMILY PTILOGONATIDAE

Phainopepla nitens, Phainopepla

FAMILY LANIIDAE

Lanius excubitor, Northern Shrike
Lanius ludovicianus, Loggerhead Shrike

FAMILY STURNIDAE

Sturnus philippensis, Violet-backed Starling
Sturnus cineraceus, Ashy Starling

FAMILY VIREONIDAE

Vireo griseus, White-eyed Vireo
Vireo latimeri, Puerto Rican Vireo
Vireo bellii, Bells' Vireo
Vireo atricapillus, Black-capped Vireo
Vireo vicinior, Gray Vireo
Vireo solitarius, Solitary Vireo
Vireo flavifrons, Yellow-throated Vireo
Vireo huttoni, Hutton's Vireo
Vireo gilvus, Warbling Vireo
Vireo philadelphicus, Philadelphia Vireo
Vireo olivaceus, Red-eyed Vireo
Vireo altiloquus, Black-whiskered Vireo

FAMILY EMBERIZIDAE

SUBFAMILY PARULINAE

Vermivora bachmanii, Bachman's Warbler
Vermivora pinus, Blue-winged Warbler

Vermivora chrysoptera, Golden-winged Warbler
Vermivora peregrina, Tennessee Warbler
Vermivora celata, Orange-crowned Warbler
Vermivora ruficapilla, Nashville Warbler
Vermivora virginiae, Virginia's Warbler
Vermivora crissalis, Colima Warbler
Vermivora luciae, Lucy's Warbler
Parula americana, Northern Parula
Parula pitiayumi, Tropical Parula
Dendroica petechia, Yellow Warbler
Dendroica pensylvanica, Chestnut-sided Warbler
Dendroica magnolia, Magnolia Warbler
Dendroica tigrina, Cape May Warbler
Dendroica caerulescens, Black-throated Blue Warbler
Dendroica coronata, Yellow-rumped Warbler
Dendroica nigrescens, Black-throated Gray Warbler
Dendroica townsendi, Townsend's Warbler
Dendroica occidentalis, Hermit Warbler
Dendroica virens, Black-throated Green Warbler
Dendroica chrysoparia, Golden-cheeked Warbler
Dendroica fusca, Blackburnian Warbler
Dendroica dominica, Yellow-throated Warbler
Dendroica graciae, Grace's Warbler
Dendroica adelaidae, Adelaide's Warbler
Dendroica pinus, Pine Warbler
Dendroica kirtlandii, Kirtland's Warbler
Dendroica discolor, Prairie Warbler
Dendroica palmarum, Palm Warbler
Dendroica castanea, Bay-breasted Warbler
Dendroica striata, Blackpoll Warbler
Dendroica cerulea, Cerulean Warbler
Dendroica angelae, Elfin Woods Warbler
Mniotilta varia, Black-and-White Warbler
Setophaga ruticilla, American Redstart
Protonotaria citrea, Prothonotary Warbler
Helmitheros vermivorus, Worm-eating Warbler
Limnothlypis swainsonii, Swainson's Warbler
Seiurus aurocapillus, Ovenbird
Seiurus noveboracensis, Northern Waterthrush
Seiurus motacilla, Louisiana Waterthrush
Oporornis formosus, Kentucky Warbler
Oporornis agilis, Connecticut Warbler
Oporornis philadelphia, Mourning Warbler
Oporornis tolmiei, MacGillivray's Warbler
Geothlypis trichas, Common Yellowthroat
Geothlypis poliocephala, Gray-crowned Yellowthroat
Wilsonia citrina, Hooded Warbler
Wilsonia pusilla, Wilson's Warbler
Wilsonia canadensis, Canada Warbler
Cardellina rubrifrons, Red-faced Warbler
Myioborus pictus, Painted Redstart
Myioborus miniatus, Slaty-throated Redstart
Basileuterus culicivorus, Golden-crowned Warbler
Basileuterus rufifrons, Rufous-capped Warbler
Icteria virens, Yellow-breasted Chat
Peucedramus taeniatus, Olive Warbler

SUBFAMILY THRAUPINAE

Spindalis zena, Stripe-headed Tanager
Neospingus speculiferus, Puerto Rican Tanager
Piranga flava, Hepatic Tanager
Piranga rubra, Summer Tanager
Piranga olivacea, Scarlet Tanager
Piranga ludoviciana, Western Tanager
Euphonia musica, Antillean Euphonia

SUBFAMILY CARDINALINAE

Rhodothraupis celaeno, Crimson-collared Grosbeak
Cardinalis cardinals, Northern Cardinal
Cardinalis sinuatus, Pyrrhuloxia
Pheucticus chrysopeplus, Yellow Grosbeak
Pheucticus ludovicianus, Rose-breasted Grosbeak
Pheucticus melanocephalus, Black-headed Grosbeak
Guiraca caerulea, Blue Grosbeak
Passerina amoena, Lazuli Bunting
Passerina cyanea, Indigo Bunting
Passerina versicolor, Varied Bunting
Passerina ciris, Painted Bunting
Spiza americana, Dickcissel

SUBFAMILY EMBERIZINAE

Arremonops rufivirgatus, Olive Sparrow
Pipilo chlorurus, Green-tailed Towhee
Pipilo erythrophthalmus, Rufous-sided Towhee
Pipilo fuscus, Brown Towhee
Pipilo aberti, Abert's Towhee
Sporophila torqueola, White-collared Seedeater
Tiaris olivacea, Yellow-faced Grassquit
Tiaris bicolor, Black-faced Grassquit
Loxigilla portoricensis, Puerto Rican Bullfinch
Aimophila aestivalis, Bachman's Sparrow
Aimophila botterii, Botteri's Sparrow
Aimophila cassinii, Cassin's Sparrow
Aimophila carpalis, Rufous-winged Sparrow
Aimophila ruficeps, Rufous-crowned Sparrow
Spizella arborea, American Tree Sparrow
Spizella passerina, Chipping Sparrow
Spizella pallida, Clay-colored Sparrow
Spizella breweri, Brewer's Sparrow
Spizella pusilla, Field Sparrow
Spizella wortheni, Worthen's Sparrow
Spizella atrogularis, Black-chinned Sparrow

Pooecetes gramineus, Vesper Sparrow
Chondestes grammacus, Lark Sparrow
Amphispiza bilineata, Black-throated Sparrow
Amphispiza belli, Sage Sparrow
Amphispiza quinquestriata, Five-striped Sparrow
Calamospiza melanocorys, Lark Bunting

Passerculus sandwichensis, Savannah Sparrow
Ammodramus bairdii, Baird's Sparrow
Ammodramus savannarum, Grasshopper Sparrow
Ammodramus henslowii, Henslow's Sparrow
Ammodramus leconteii, Le Conte's Sparrow
Ammodramus caudacutus, Sharp-tailed Sparrow
Ammodramus maritimus, Seaside Sparrow
Passerella iliaca, Fox Sparrow
Melosipza melodia, Song Sparrow
Melospiza lincolnii, Lincoln's Sparrow
Melospiza georgiana, Swamp Sparrow
Zonotrichia albicollis, White-throated Sparrow
Zonotrichia atricapilla, Golden-crowned Sparrow
Zonotrichia leucophrys, White-crowned Sparrow
Zonotrichia querula, Harris' Sparrow
Junco hyemalis, Dark-eyed Junco
Junco phaeonotus, Yellow-eyed Junco
Emberiza rustica, Rustic Bunting
Emberiza pallasi, Pallas' Reed-Bunting
Emberiza schoeniculus, Common Reed-Bunting
Calcarius mccownii, McCown's Longspur
Calcarius lapponicus, Lapland Longspur
Calcarius pictus, Smith's Longspur
Calcarius ornatus, Chestnut-collared Longspur
Plectrophenax nivalis, Snow Bunting
Plectrophenax hyperboreus, McKay's Bunting

SUBFAMILY ICTERINAE

Dolichonyx oryzivorus, Bobolink
Agelaius phoeniceus, Red-winged Blackbird
Agelaius tricolor, Tricolored Blackbird
Agelaius humeralis, Tawny-shouldered Blackbird
Agelaius xanthomus, Yellow-shouldered Blackbird
Sturnella magna, Eastern Meadowlark
Sturnella neglecta, Western Meadowlark
Xanthocephalus xanthocephalus, Yellow-headed Blackbird
Euphagus carolinus, Rusty Blackbird
Euphagus cyanocephalus, Brewer's Blackbird
Quiscalus mexicanus, Great-tailed Grackle
Quiscalus major, Boat-tailed Grackle
Quiscalus quiscula, Common Grackle
Quiscalus niger, Greater Antillean Grackle
Molothrus bonariensis, Shiny Cowbird
Molothrus aeneus, Bronzed Cowbird
Molothrus ater, Brown-headed Cowbird
Icterus dominicensis, Black-cowled Oriole
Icterus wagleri, Black-vented Oriole
Icterus spurius, Orchard Oriole
Icterus cucullatus, Hooded Oriole
Icterus pustulatus, Streak-backed Oriole
Icterus gularis, Altamira Oriole
Icterus graduacauda, Audubon's Oriole
Icterus galbula, Northern Oriole
Icterus parisorum, Scott's Oriole

FAMILY FRINGILLIDAE

SUBFAMILY FRINGILLINAE

Fringilla montifringilla, Brambling

SUBFAMILY CARDUELINAE

Leucosticte arctoa, Rosy Finch
Pinicola enucleator, Pine Grosbeak
Carpodacus erythrinus, Common Rosefinch
Carpodacus purpureus, Purple Finch
Carpodacus cassinii, Cassin's Finch
Carpodacus mexicanus, House Finch
Loxia curvirostra, Red Crossbill
Loxia leucoptera, White-winged Crossbill
Carduelis flammea, Common Redpoll
Carduelis hornemanni, Hoary Redpoll
Carduelis pinus, Pine Siskin
Carduelis psaltria, Lesser Goldfinch
Carduelis lawrencei, Lawrence's Goldfinch
Carduelis tristis, American Goldfinch
Carduelis sinica, Oriental Greenfinch
Pyrrhula pyrrhula, Eurasian Bullfinch
Coccothraustes vespertinus, Evening Grosbeak
Coccothraustes coccothraustes, Hawfinch

[50 FR 13710, Apr. 5, 1985]

Subpart C—Addresses

§ 10.21 Director.

(a) Mail forwarded to the Director for law enforcement purposes should be addressed:

Chief, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, D.C. 20005.

(b) Mail forwarded to the Director with reference to permits should be addressed:

Director (FWS/WPO), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

[42 FR 9181, Feb. 15, 1977, as amended at 45 FR 64952, Oct. 1, 1980]

§ 10.22 Law enforcement offices.

Service law enforcement offices and their areas of responsibility follow. Mail should be addressed: "Special Agent in Charge, U.S. Fish and Wildlife Service, (appropriate address below)":

AREAS OF RESPONSIBILITY AND OFFICE ADDRESSES

California, Hawaii, Idaho, Nevada, Oregon, Washington, American Samoa, Guam, the Marshall Islands, Northern Mariana Islands, and the Trust Territory of the Pacific Islands (District 1):

847 NE. 19th Ave., Suite 225, Portland, OR 97232, Telephone: 503-231-6125.

Arizona, New Mexico, Oklahoma, and Texas (District 2):

P.O. Box 329, Albuquerque, NM 87103, Telephone: 505-766-2091

Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin (District 3):

P.O. Box 45, Twin Cities, MN 55111, Telephone: 612-725-3530

Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the Virgin Islands (District 4):

P.O. Box 4839, Atlanta, GA 30302, Telephone: 404-221-5872

Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia (District 5):

P.O. Box 129, New Town Branch, Boston, MA 02258

Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming (District 6):

P.O. Box 25486, Denver Federal Center, Denver, CO 80225, Telephone: 303-234-4612

Alaska (District 7):

P.O. Box 42597, Anchorage, AK 99509, Telephone: 907-786-3311

Any foreign country (Washington Office):

P.O. Box 28006, Washington, D.C. 20005, Telephone: 202-343-9242

(Pub. L. 97-79, 95 Stat. 1072; 16 U.S.C. 3371-3378)

[48 FR 1313, Jan. 12, 1983; 48 FR 37040, Aug. 16, 1983, as amended at 49 FR 31291, Aug. 6, 1984]

PART 11—CIVIL PROCEDURES

Subpart A—Introduction

Sec.

11.1 Purpose of regulations.
11.2 Scope of regulations.
11.3 Filing of documents.

Subpart B—Assessment Procedure

11.11 Notice of violation.
11.12 Petition for relief.
11.13 Decision by the Director.
11.14 Notice of assessment.
11.15 Request for a hearing.
11.16 Final administrative decision.
11.17 Payment of final assessment.

Sec.

Subpart C—Hearing and Appeal Procedures

11.21 Commencement of hearing procedures.
11.22 Appearance and practice.
11.23 Hearings.
11.24 Final administrative action.
11.25 Appeal.
11.26 Reporting service.

AUTHORITY: Lacey Act, 83 Stat. 279-281, 18 U.S.C. 42-44; Lacey Act Amendments of 1981, 95 Stat. 1073-1080, 16 U.S.C. 3371 *et seq.*; Bald Eagle Protection Act, sec. 2, 54 Stat. 251, 16 U.S.C. 668a; Endangered Species Act of 1973, sec. 11(f), 87 Stat. 884, 16 U.S.C. 1540(f); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, 16 U.S.C. 1382.

SOURCE: 39 FR 1159, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 11.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the assessment of civil penalties in connection with violations of certain laws and regulations enforced by the Service.

§ 11.2 Scope of regulations.

The regulations contained in this part apply only to actions arising under the following laws and regulations issued thereunder:

Lacey Act, 18 U.S.C. 43;

Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*;

Bald Eagle Protection Act, 16 U.S.C. 668-668d;

Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531 *et seq.*; and Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1384 and 1401-1407.

[47 FR 56860, Dec. 21, 1982]

§ 11.3 Filing of documents.

(a) Whenever a document or other paper is required to be filed under this part within a certain time, such document or paper will be considered filed as of the date of the postmark if mailed, or the date actually delivered to the office where filing is required. The time periods set forth in this part shall begin to run as of the day following the date of the document or other paper.

(b) If an oral or written application is made to the Director up to 10 calendar days after the expiration of a time period established in this part for the required filing of documents or other papers, the Director may permit a late filing within a fixed period where reasonable grounds are found for an inability or failure to file within the time period required. All such extensions shall be in writing. Except as provided in this subsection, no other requests for an extension of time may be granted.

Subpart B—Assessment Procedure

§ 11.11 Notice of violation.

(a) A notice of violation (hereinafter "notice"), shall be issued by the Director and served personally or by registered or certified mail, return receipt requested, upon the person believed to be subject to a civil penalty (the respondent). The notice shall contain: (1) A concise statement of the facts believed to show a violation, (2) a specific reference to the provisions of the statute or regulation allegedly violated, and (3) the amount of penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the case. The notice shall also advise the respondent of his right to file a petition for relief pursuant to § 11.12, or to await the Director's notice of assessment.

(b) The respondent shall have 45 days from the date of the notice of violation in which to respond. During this time he may:

(1) Undertake informal discussions with the Director;

(2) Accept the proposed penalty, or the compromise, if any, offered in the notice;

(3) File a petition for relief; or

(4) Take no action, and await the Director's decision, pursuant to § 11.13.

(c) Acceptance of the proposed penalty or the compromise shall be deemed to be a waiver of the notice of assessment required by § 11.14, and of the opportunity for a hearing. Any counter offer of settlement shall be deemed a rejection of the proposed offer of compromise.

§ 11.12 Petition for relief.

If the respondent so chooses he may ask that no penalty be assessed or that the amount be reduced, and he may admit or contest the legal sufficiency of the charge and the Director's allegations of facts, by filing a petition for relief (hereinafter "petition") with the Director at the address specified in the notice within 45 days of the date thereof. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, the petition must be signed by an officer authorized to sign such documents. It must set forth in full the legal or other reasons for the relief.

§ 11.13 Decision by the Director.

Upon expiration of the period required or granted for filing of a petition for relief, the Director shall proceed to make an assessment of a civil penalty, taking into consideration information available to him and such showing as may have been made by the respondent, either pursuant to § 11.11 or § 11.12, or upon further request of the Director.

§ 11.14 Notice of assessment.

The Director shall notify the respondent by a written notice of assessment, by personal service or by registered or certified mail, return receipt requested, of his decision pursuant to § 11.13. He shall set forth therein the facts and conclusions upon which he decided that the violation did occur and appropriateness of the penalty assessed.

§ 11.15 Request for a hearing.

Except where a right to request a hearing is deemed to have been waived as provided in § 11.11, the respondent may, within 45 calendar days from the date of the notice of assessment referred to in § 11.14, file a dated, written request for a hearing with the Hearings Division, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. The request should state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and notice of assessment. A copy of the request shall be served upon the Director personally or by registered or certified mail, return receipt requested, at the address specified in the notice.

§ 11.16 Final administrative decision.

(a) Where no request for a hearing is filed as provided in § 11.15 the Director's assessment shall become effective and shall constitute the final administrative decision of the Secretary on the 45th calendar day from the date of the notice of assessment.

(b) If a request for a hearing is timely filed in accordance with § 11.15, the date of the final administrative decision in the matter shall be as provided in Subpart C of this part.

§ 11.17 Payment of final assessment.

When a final administrative decision becomes effective in accordance with this Part 11, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in Office of the Director during normal business hours, on or before the 20th day. Upon a failure to pay the penalty, the Solicitor of the Department may request the Attorney General to institute a civil action in the U.S. District Court to collect the penalty.

Subpart C—Hearing and Appeal Procedures

§ 11.21 Commencement of hearing procedures.

Proceedings under this subpart are commenced upon the timely filing with the Hearings Division of a request for a hearing, as provided in § 11.15 of Subpart B. Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge to the case. Notice of assignment will be given promptly to the parties, and thereafter, all pleadings, papers, and other documents in the proceeding shall be filed directly with the administrative law judge, with copies served on the opposing party.

§ 11.22 Appearance and practice.

(a) Subject to the provisions of 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel, and may participate fully in these proceedings.

(b) Department counsel designated by the Solicitor of the Department shall represent the Director in these proceedings. Upon notice to the Director of the assignment of an administrative law judge to the case, said counsel shall enter his appearance on behalf of the Director and shall file all petitions and correspondence exchanged by the Director and the respondent pursuant to Subpart B of this part, which shall become part of the hearing record. Thereinafter, service upon the Director in these proceedings shall be made to his counsel.

§ 11.23 Hearings.

(a) The administrative law judge shall have all powers accorded by law and necessary to preside over the parties and the proceedings and to make decisions in accordance with 5 U.S.C. 554-557. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the making of a decision on the record made at the hearing. Copies of the transcript may be inspected or copied.

(b) The transcript of testimony, the exhibits, and all papers, documents, and requests filed in the proceedings, shall constitute the record for decision. The judge will render a written decision upon the record, which shall set forth his findings of fact and conclusions of law, and the reasons and basis therefor, and an assessment of a penalty, if any.

§ 11.24 Final administrative action.

Unless a notice of request for an appeal is filed in accordance with § 11.25 of this Subpart C, the administrative law judge's decision shall constitute the final administrative determination of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

§ 11.25 Appeal.

(a) Either the respondent or the Director may seek an appeal from the decision of an administrative law judge rendered subsequent to January 1, 1974, by the filing of a "Notice of Request for Appeal" with the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(b) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of Subpart G of the Department Hearings and Appeals Procedures in 43 CFR Part 4 shall apply to appeal proceedings under this Subpart. The determination of the board to grant or deny an appeal, as well as its decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the proceeding on the date it is rendered, unless otherwise specified therein.

§ 11.26 Reporting service.

Copies of decisions in civil penalty proceedings instituted under statutes referred to in Subpart A of this part and rendered subsequent to June 3, 1970, may be obtained by letter of request addressed to the Director, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Fees for this service shall be as established by the Director of that Office.

PART 12—SEIZURE AND FORFEITURE PROCEDURES

Subpart A—General Provisions

Sec.

12.1 Purpose of regulations.
12.2 Scope of regulations.
12.3 Definitions.
12.4 Filing of documents.
12.5 Seizure by other agencies.
12.6 Bonded release.

Subpart B—Preliminary Requirements

12.11 Notification of seizure.
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Subpart C—Forfeiture Proceedings

12.21 Criminal prosecutions.
12.22 Civil actions to obtain forfeiture.
12.23 Administrative forfeiture proceedings.
12.24 Petition for remission of forfeiture.
12.25 Transfers in settlement of civil penalty claims.

Subpart D—Disposal of Forfeited or Abandoned Property

12.30 Purpose.
12.31 Accountability.
12.32 Effect of prior illegality.
12.33 Disposal.
12.34 Return to the wild.
12.35 Use by the service or transfer to another government agency for official use.
12.36 Donation or loan.
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12.38 Destruction.
12.39 Information on property available for disposal.

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

12.41 Petition for restoration of proceeds.
12.42 Recovery of certain storage costs.

Subpart F—Return of Property

12.51 Return procedure.

AUTHORITY: Act of September 6, 1966, 5 U.S.C. 301; Bald and Golden Eagles Protection Act, 16, U.S.C. 668-668b; National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd(e)-(f); Migratory Bird Treaty Act, 16 U.S.C. 704, 706-707, 712; Migratory Bird Hunting and Conservation Stamp Act, 16 U.S.C. 718f-718g; Fish and Wildlife Act of 1956 [Airborne Hunting Amendments], 16 U.S.C. 742j-l(d)-(f); Black Bass Act, 16 U.S.C. 852d-853; Marine Mammal Protection Act of 1972, 16 U.S.C. 1375-1377, 1382; Endangered Species Act of 1973, 16 U.S.C. 1540; Lacey Act, 18 U.S.C. 43, 44; Lacey Act Amendments of 1981, 95 Stat. 1073-1080, 16 U.S.C. 3371 *et seq.*; Tariff Act of 1930, 19 U.S.C. 1602-1624; Fish and Wildlife Improvement Act of 1978, 16 U.S.C. 742l; Exotic Organisms, E.O. 11987, 42 FR 26949; American Indian Religious Freedom Act, 42 U.S.C. 1996.

SOURCE: 45 FR 17864, Mar. 19, 1980, unless otherwise noted.

Subpart A—General Provisions

§ 12.1 Purpose of regulations.

The regulations of this part establish procedures relating to property seized or subject to forfeiture under various laws enforced by the Service.

§ 12.2 Scope of regulations.

Except as hereinafter provided, the regulations of this part apply to all property seized or subject to forfeiture under any of the following laws:

(a) The Eagle Protection Act, 16 U.S.C. 668 *et seq.;*

(b) The National Wildlife Refuge System Administration Act, 16 U.S.C. 668dd *et seq.*;

(c) The Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*;

(d) The Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*;

(e) The Airborne Hunting Act, 16 U.S.C. 742j-1;

(f) The Black Bass Act, 16 U.S.C. 851 *et seq.*;

(g) The Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*;

(h) The Endangered Species Act, 16 U.S.C. 1531 *et seq.*; and

(i) The Lacey Act, 18 U.S.C. 43-44.

(j) The Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*

[45 FR 17864, Mar. 19, 1980; 45 FR 31725, May 14, 1980, as amended at 47 FR 56860, Dec. 21, 1982]

§ 12.3 Definitions.

(a) As used in this part:

(1) "Attorney General" means the Attorney General of the United States or an authorized representative;

(2) "Disposal" includes, but is not limited to, remission, return to the wild, use by the Service or transfer to another government agency for official use, donation or loan, sale, or destruction.

(3) "Domestic value" means the price at which the seized property or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the oridinary course of trade. If there is no market for the seized property at the place of appraisement, such value in the principal market nearest to the place of appraisement shall be reported.

(4) "Solicitor" means the Solicitor of the Department of the Interior or an authorized representative.

(b) The definitions of paragraph (a) of this section are in addition to, and not in lieu of, those contained in § 1.1 through 1.8 and § 10.12 of this title.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 17525, Apr. 23, 1982]

§ 12.4 Filing of documents.

(a) Whenever any document is required by this part to be filed or served within a certain period of time, such document will be considered filed or served as of the date of receipt by the party with or upon whom filing or service is required. The time periods established by this part shall begin to run on the day following the date of filing or service.

(b) If an oral or written application is made before the expiration of a time period established by this part, an extension of such period for a fixed number of days may be granted where there are reasonable grounds for the failure to file or serve the document within the period required. Any such extension shall be in writing. Except as provided in this paragraph, no other requests for an extension shall be granted.

§ 12.5 Seizure by other agencies.

Any authorized employee or officer of any other Federal agency who has seized any wildlife or other property under any of the laws listed in § 12.2 will, if so requested, deliver such seizure to the appropriate Special Agent in Charge designated in § 10.22 of this title, or to an authorized designee, who shall either hold such seized wildlife or other property or arrange for its proper handling and care.

§ 12.6 Bonded release.

(a) Subject to the conditions set forth in paragraphs (b) and (c) of this section, and to such additional conditions as may be appropriate, the Service, in its discretion, may accept an appearance bond or other security (including, but not limited to, payment of the value as determined under § 12.12) in place of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.;* Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or Eagle Protection Act, 16 U.S.C. 668 *et seq.*

(b) Property may be released under this section only to the owner or consignee.

(c) Property may be released under this section only if possession thereof will not violate or frustrate the purpose or policy of any applicable law or regulation.

[45 FR 17864, Mar. 19, 1980; 45 FR 31725, May 14, 1980, as amended at 47 FR 56860, Dec. 21, 1982]

Subpart B—Preliminary Requirements

§ 12.11 Notification of seizure.

Except where the owner or consignee is personally notified or seizure is made pursuant to a search warrant, the Service shall, as soon as practicable following the seizure or other receipt of seized wildlife or other property, mail a notification of seizure by registered or certified mail, return receipt requested, to the owner or consignee, if known or easily ascertainable. Such notification shall describe the seized wildlife or other property, and shall state the time, place, and reason for the seizure.

§ 12.12 Appraisement.

The Service shall determine the value of any cargo, of a vessel or other conveyance employed in unlawful taking, seized under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and the value of any property seized under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1, *et seq.*; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.* If the seized property may lawfully be sold in the United States, its domestic value shall be determined in accordance with § 12.3. If the seized property may not lawfully be sold in the United States, its value shall be determined by other reasonable means.

[47 FR 56860, Dec. 21, 1982]

Subpart C—Forfeiture Proceedings

§ 12.21 Criminal prosecutions.

If property is subject to criminal forfeiture, such forfeiture will be obtained in accordance with the *Federal Rules of Criminal Procedure.*

§ 12.22 Civil actions to obtain forfeiture.

The Solicitor may request the Attorney General to file a civil action to obtain forfeiture of any property subject to forfeiture under the Airborne Hunting Act, 16 U.S.C. 742j-1; Lacey Act, 18 U.S.C. 43-44; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Black Bass Act, 16 U.S.C. 851 *et seq.*; Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*; Migratory Bird Treaty Act, 16 U.S.C. 703 *et seq.*; Migratory Bird Hunting Stamp Act, 16 U.S.C. 718 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Endangered Species Act, 16 U.S.C. 1531 *et seq.*. Before any such action is filed against property subject to forfeiture under the Lacey Act, 18 U.S.C 43, or against property, other than the cargo of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, a civil penalty must first be assessed in accordance with the statute and applicable regulations, and no such action may be filed more than 30 days after the conclusion of civil penalty assessment proceedings.

[47 FR 56860, Dec. 21, 1982]

§ 12.23 Administrative forfeiture proceedings.

(a) *When authorized.* Whenever any property subject to forfeiture under the Eagle Protection Act, 16 U.S.C. 668 *et seq.*, or Airborne Hunting Act, 16 U.S.C. 742j-1, or any wildlife or plant subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, or any fish, wildlife or plant subject to forfeiture under the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, is determined under § 12.12 to have a value not greater than $100,000, the Solicitor may obtain forfeiture of such property in accordance with this section.

(b) *Procedure*—(1) *Notice of proposed forfeiture.* As soon as practicable following seizure, the Solicitor shall issue a notice of proposed forfeiture.

(A) *Publication.* The notice shall be published once a week for at least three successive weeks in a newspaper of general circulation in the locality where the property was seized. If the value of the seized property as determined under § 12.12 does not exceed $1000, the notice may be published by posting, instead of newspaper publication, for at least three successive weeks in a conspicuous place accessible to the public at the Service's enforcement office, the U.S. District Court or the U.S. Customhouse nearest the place of seizure. In cases of posting, the date of initial posting shall be indicated on the notice. In addition to newspaper publication or posting, a reasonable effort shall be made to serve the notice personally or by registered or certified mail, return receipt requested, on each person whose whereabouts and interest in the seized property are known or easily ascertainable.

(B) *Contents.* The notice shall be in substantially the same form as a complaint for forfeiture filed in United States District Court. The notice shall describe the property, including, in the case of motor vehicles, the license, registration, motor, and serial numbers. The notice shall state the time and place of seizure, as well as the reason therefor, and shall specify the value of the property as determined under § 12.12. The notice shall contain a specific reference to the provisions of the laws or regulations allegedly violated and under which the property is subject to forfeiture. The notice shall state that any person desiring to claim the property must file a claim and a bond in accordance with paragraph (b)(2) of this section, and shall state that if a proper claim and bond are not received by the proper office within the time prescribed by such paragraph, the property will be declared forfeited to the United States and disposed of according to law. The notice shall also advise interested persons of their right to file a petition for remission of forfeiture in accordance with § 12.24.

(2) *Filing a claim and bond.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's office indicated in the notice a claim to the property and a bond in the penal sum of $5,000, or ten per centum of the value of the claimed property, whichever is lower, but not less than $250. Any claim and bond must be received in such office within 30 days after the date of first publication or posting of the notice of proposed forfeiture. The claim shall state the claimant's interest in the property. The bond filed with the claim shall be on a United States Customs Form 4615 or on a similar form provided by the Department. There shall be endorsed on the bond a list or schedule in substantially the following form which shall be signed by the claimant in the presence of the witnesses to the bond, and attested by the witnesses:

List or schedule containing a particular description of seized article, claim for which is covered by the within bond, to wit:

The foregoing list is correct.

Claimant ________________

Attest: ________________

The claim and bond referred to in this paragraph shall not entitle the claimant or any other person to possession of the property.

(3) *Transmittal to Attorney General.* As soon as practicable after timely receipt by the proper office of a proper claim and bond in accordance with paragraph (b)(2) of this section, the Solicitor shall transmit such claim and bond to the Attorney General for institution of forfeiture proceedings in U.S. District Court.

(4) *Motion for stay.* Upon issuance of the notice of proposed forfeiture, any person claiming the seized property may file with the Solicitor's regional or field office indicated in the notice a motion to stay administrative forfeiture proceedings. Any motion for stay must be filed within 30 days after the date of first publication or posting of

the notice of the proposed forfeiture. Each motion must contain: (i) The claimant's verified statement showing that he or she holds absolute, fee simple title to the seized property, free and clear of all liens, encumbrances, security interests, or other third-party interests, contingent or vested; and (ii) the claimant's offer to pay in advance all reasonable costs anticipated to be incurred in the storage, care, and maintenance of the seized property for which administrative forfeiture is sought. Where a stay of administrative forfeiture proceedings would not injure or impair the rights of any third parties and where the claimant has agreed to pay in advance anticipated, reasonable storage costs associated with the granting of a stay, the Regional or Field Solicitor as appropriate may, in his discretion, grant the motion for stay and specify reasonable and prudent conditions therefor, including but not limited to the duration of the stay, a description of the factors which would automatically terminate the stay, and any requirement for a bond (including amount) to secure the payment of storage and other maintenance costs. If a motion for stay is denied, or if a stay is terminated for any reason, the claimant must file, if he or she has not already done so, a claim and bond in accordance with paragraph (b)(2) of this section not later than 30 days after receipt of the Solicitor's Office denial or termination order. Failure to file the claim and bond within 30 days will result in summary foreiture under paragraph (c) of this section.

(c) *Summary forfeiture.* If a proper claim and bond are not received by the proper office within 30 days as specified in paragraph (b)(2) of this section, the Solicitor shall declare the property forfeited. The declaration of forfeiture shall be in writing, and shall be sent by registered or certified mail, return receipt requested, to the Service and to each person whose whereabouts and prior interest in the seized property are known or easily ascertainable. The declaration shall be in substantially the same form as a default judgment of forfeiture entered in United States District Court. The declaration shall describe the property and state the time, place, and reason for its seizure. The declaration shall identify the notice of proposed forfeiture, describing the dates and manner of publication of the notice and any efforts made to serve the notice personally or by mail. The declaration shall state that in response to the notice a proper claim and bond were not timely received by the proper office from any claimant, and that therefore all potential claimants are deemed to admit the truth of the allegations of the notice. The declaration shall conclude with an order of condemnation and forfeiture of the property to the United States for disposition according to law.

[45 FR 17864, Mar. 19, 1980, as amended at 46 FR 44759, Sept. 8, 1981; 47 FR 56860, Dec. 21, 1982; 50 FR 6350, Feb. 15, 1985]

§ 12.24 Petition for remission of forfeiture.

(a) Any person who has an interest in cargo, of a vessel or other conveyance employed in unlawful taking, subject to forfeiture under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, or any person who has an interest in any property subject to forfeiture under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, or any person who has incurred or is alleged to have incurred a forfeiture of any such property, may file with the Solicitor or, when forfeiture proceedings have been brought in U.S. District Court, the Attorney General, a petition for remission of forfeiture.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received before disposition of the property and must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence; and

(4) A statement of all facts and circumstances relied upon by the peti-

tioner to justify remission of the forfeiture.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, U.S. Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify remission or mitigation of the forfeiture or alleged forfeiture, the Solicitor may remit or mitigate the same upon such terms and conditions as may be reasonable and just or may order discontinuance of any proceeding under § 12.23

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.25 Transfers in settlement of civil penalty claims.

In the discretion of the Solicitor, an owner of wildlife or plants who may be liable for civil penalty under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Lacey Act, 18 U.S.C. 43; Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; or Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, may be given an opportunity to completely or partially settle the civil penalty claim by transferring to the United States all right, title, and interest in any wildlife or plants that are subject to forfeiture. Such transfer may be accomplished by the owner's execution and return of a U.S. Customs Form 4607 or a similar compromise transfer of property instrument provided by the Department.

[47 FR 56861, Dec. 21, 1982]

Subpart D—Disposal of Forfeited or Abandoned Property

SOURCE: 47 FR 17525, Apr. 23, 1982, unless otherwise noted.

§ 12.30 Purpose.

Upon forfeiture or abandonment of any property to the United States under this part the Director shall dispose of such property under the provisions of this Subpart D.

§ 12.31 Accountability.

All property forfeited or abandoned under this part must be accounted for in official records. These records must include the following information:

(a) A description of the item.

(b) The date and place of the item's seizure (if any) and forfeiture or abandonment.

(c) The investigative case file number with which the item was associated.

(d) The name of any person known to have or to have had an interest in the item.

(e) The date, place, and manner of the item's initial disposal.

(f) Name of the official responsible for the initial disposal.

(g) Domestic value of the property.

§ 12.32 Effect of prior illegality.

The effect of any prior illegality on a subsequent holder of any wildlife or plant disposed of or subject to disposal is terminated upon forfeiture or abandonment, but the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant under the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations remain in effect as to the conduct of such holder.

§ 12.33 Disposal.

(a) The Director shall dispose of any wildlife or plant forfeited or abandoned under the authority of this part, subject to the restrictions provided in this subpart, by one of the following means, unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order:

(1) Return to the wild;

(2) Use by the Service or transfer to another government agency for official use;

(3) Donation or loan;

(4) Sale; or

(5) Destruction.

In the exercise of the disposal authority, the Director ordinarily must dispose of any wildlife or plant in the order in which the disposal methods appear in this paragraph (a) of this section.

(b) The Director shall dispose of any other property forfeited or abandoned under the authority of this part (including vehicles, vessels, aircraft, cargo, guns, nets, traps, and other equipment), except wildlife or plants, in accordance with current Federal Property Management Regulations (41 CFR Chapter 101) and Interior Property Management Regulations (41 CFR Chapter 114), unless the item is the subject of a petition for remission of forfeiture under § 12.24 of this part, or disposed of by court order.

(c) The Director shall dispose of property according to the following schedule, unless the property is the subject of a petition for remission of forfeiture under § 12.24 of this part:

(1) Any live wildlife or plant and any wildlife or plant that the Director determines is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping is disproportionate to its value may be disposed of immediately after forfeiture or abandonment; and

(2) All other property may be disposed of no sooner than 60 days after forfeiture or abandonment.

(d) If the property is the subject of a petition for remission of forfeiture under § 12.24 of this part, the Director may not dispose of the property until the Solicitor or Attorney General makes a final decision not to grant relief.

§ 12.34 Return to the wild.

(a) Any live member of a native species of wildlife which is capable of surviving may be released to the wild in suitable habitat within the historical range of the species in the United States with the permission of the landowner, unless release poses an imminent danger to public health or safety.

(b) Any live member of a native species of plant which is capable of surviving may be transplanted in suitable habitat on Federal or other protected lands within the historical range of the species in the United States with the permission of the landowner.

(c) Any live member of an exotic species of wildlife (including injurious wildlife) or plant may not be returned to the wild in the U.S., but may be returned to one of the following countries for return to suitable habitat in accordance with the provisions of § 12.35 of this part if it is capable of surviving:

(1) The country of export (if known) after consultation with and at the expense of the country of export, or

(2) A country within the historic range of the species which is party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (TIAS 8249) after consultation with and at the expense of such country.

§ 12.35 Use by the Service or transfer to another government agency for official use.

(a) Wildlife and plants may be used by the Service or transferred to another government agency (including foreign agencies) for official use including, but not limited to, one or more of the following purposes:

(1) Training government officials to perform their official duties;

(2) Identifying protected wildlife or plants, including forensic identification or research;

(3) Educating the public concerning the conservation of wildlife or plants;

(4) Conducting law enforcement operations in performance of official duties;

(5) Enhancing the propagation or survival of a species or other scientific purposes;

(6) Presenting as evidence in a legal proceeding involving the wildlife or plant; or

(7) Returning to the wild in accordance with § 12.34 of this part.

(b) Each transfer and the terms of the transfer must be documented.

(c) The agency receiving the wildlife or plants may be required to bear all costs of care, storage, and transportation in connection with the transfer from the date of seizure to the date of delivery.

§ 12.36 Donation or loan.

(a) Except as otherwise provided in this section, wildlife and plants may be donated or loaned for scientific, educational, or public display purposes to any person who demonstrates the ability to provide adequate care and security for the item.

(b) Any donation or loan may be made only after execution of a transfer document between the Director and the donee/borrower, which is subject to the following conditions:

(1) The purpose for which the wildlife or plants are to be used must be stated on the transfer document;

(2) Any attempt by the donee/borrower to use the donation or loan for any other purpose except that stated on the transfer document entitles the Director to immediate repossession of the wildlife or plants;

(3) The donee/borrower must pay all costs associated with the transfer, including the costs of care, storage, transportation, and return to the Service (if applicable);

(4) The donee/borrower may be required to account periodically for the donation or loan;

(5) The donee/borrower is not relieved from the prohibitions, restrictions, conditions, or requirements which may apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable health, quarantine, agricultural, or Customs laws or regulations.

(6) Any attempt by a donee to retransfer the donation during the time period specified in the transfer document within which the donee may not retransfer the donation without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(7) Any attempt by a borrower to retransfer the loan without the prior authorization of the Director entitles the Director to immediate repossession of the wildlife or plants;

(8) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the place where the donation or loan is kept and an opportunity to inspect it;

(9) Any donation is subject to conditions specified in the transfer document, the violation of which causes the property to revert to the United States;

(10) Any loan is for an indefinite period of time unless a date on which the loan must be returned to the Service is stated on the transfer document; and

(11) Any loan remains the property of the United States, and the Director may demand its return at any time.

(c) Wildlife and plants may be donated to individual American Indians for the practice of traditional American Indian religions. Any donation of the parts of bald or golden eagles to American Indians may only be made to individuals authorized by permit issued in accordance with § 22.22 of this title to possess such items.

(d) Edible wildlife, fit for human consumption, may be donated to a non-profit, tax-exempt charitable organization for use as food, but not for barter or sale.

(e) Wildlife and plants may be loaned to government agencies (including foreign agencies) for official use. Each transfer and the terms of the transfer must be documented.

§ 12.37 Sale.

(a) Wildlife and plants may be sold or offered for sale, except any species which at the time it is to be sold or offered for sale falls into one of the following categories:

(1) Listed in § 10.13 of this title as a migratory bird protected by the Migratory Bird Treaty Act (16 U.S.C. 703-712);

(2) Protected under the Eagle Protection Act (16 U.S.C. 668-668d);

(3) Listed in § 23.33 of this title as "Appendix I" under the Convention on International Trade in Endangered Species of Wild Fauna and Flora;

(4) Listed in § 17.11 of this title as "endangered" or "threatened" under the Endangered Species Act of 1973 (16 U.S.C. 1533), unless the item or species may be lawfully traded in interstate commerce; and

(5) Protected under the Marine Mammal Protection Act (16 U.S.C. 1361-1407), unless the item or species may be lawfully traded in interstate commerce.

(b) Wildlife and plants must be sold in accordance with current Federal Property Management Regulations (41 CFR Chapter 101) and Interior Property Management Regulations (41 CFR Chapter 114) or U.S. Customs laws and regulations, except the Director may sell any wildlife or plant immediately for its fair market value if the Director determines that it is liable to perish, deteriorate, decay, waste, or greatly decrease in value by keeping, or that the expense of keeping it is disproportionate to its value.

(c) Wildlife or plants which may not be possessed lawfully by purchasers under the laws of the State where held may be moved to a State where possession is lawful and may be sold.

(d) Wildlife or plants purchased at sale are subject to the prohibitions, restrictions, conditions, or requirements which apply to a particular species of wildlife or plant imposed by the laws or regulations of the United States or any State, including any applicable conservation, health, quarantine, agricultural, or Customs laws or regulations, except as provided by § 12.32 of this part.

(e) The Director may use the proceeds of sale to reimburse the Service for any costs which by law the Service is authorized to recover or to pay any rewards which by law may be paid from sums the Service receives.

§ 12.38 Destruction.

(a) Wildlife and plants not otherwise disposed of must be destroyed.

(b) When destroyed, the fact, manner, and date of destruction and the type and quantity destroyed must be certified by the official actually destroying the items.

§ 12.39 Information on property available for disposal.

Persons interested in obtaining information on property which is available for disposal should contact the appropriate Special Agent in Charge listed in § 10.22 of this title.

Subpart E—Restoration of Proceeds and Recovery of Storage Costs

§ 12.41 Petition for restoration of proceeds.

(a) Any person claiming any property or interest therein which has been forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*; Eagle Protection Act, 16 U.S.C. 668 *et seq.*; Airborne Hunting Act, 16 U.S.C. 742j-1; or the Lacey Act Amendments of 1981, 16 U.S.C. 3371 *et seq.*, and sold according to law, or any person claiming cargo or an interest therein, of a vessel or other conveyance employed in unlawful taking which has been forfeited under the Marine Mammal Protection Act, 16 U.S.C. 1361 *et seq.*, and sold according to law, may file with the Solicitor or, where forfeiture proceedings have been brought in U.S. District Court, the Attorney General, a petition for restoration of proceeds.

(b) A petition filed with the Solicitor need not be in any particular form, but it must be received within three months after the date of sale of the property and must contain the following:

(1) A description of the property;

(2) The time and place of seizure;

(3) Evidence of the petitioner's interest in the property, including contracts, bills of sale, invoices, security interests, certificates of title, and other satisfactory evidence;

(4) A request for restoration of the proceeds or such part thereof as is claimed by the petitioner; and

(5) A statement of all facts and circumstances relied upon by the petitioner to justify restoration of the proceeds, including proof that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same.

(c) The petition shall be signed by the petitioner or the petitioner's attorney at law. If the petitioner is a corporation, the petition must be signed by an authorized officer, supervisory employee, or attorney at law, and the corporate seal shall be properly affixed to the signature.

(d) A false statement in the petition may subject the petitioner to prosecution under title 18, U.S. Code, section 1001.

(e) Upon receiving the petition, the Solicitor shall decide whether or not to grant relief. In making a decision, the Solicitor shall consider the information submitted by the petitioner, as well as any other available information relating to the matter.

(f) If the Solicitor finds the existence of such mitigating circumstances as to justify restoration of the proceeds or any part thereof and that the petitioner did not know of the seizure before the declaration or order of forfeiture and was in such circumstances as prevented the petitioner from knowing of the same, the Solicitor may order the proceeds or any part thereof restored to the petitioner, after deducting from such proceeds the costs of seizure, storage, forfeiture and disposition, the duties, if any, accruing on the seized property, and any sum due on a lien for freight, charges, or contribution in general average, notice of which has been filed with the Solicitor according to law.

(g) If the Solicitor decides that relief should not be granted, the Solicitor shall so notify the petitioner in writing, stating in the notification the reasons for denying relief. The petitioner may then file a supplemental petition, but no supplemental petition shall be considered unless it is received within 60 days from the date of the Solicitor's notification denying the original petition.

[45 FR 17864, Mar. 19, 1980, as amended at 47 FR 56861, Dec. 21, 1982]

§ 12.42 Recovery of certain storage costs.

If any wildlife, plant, or evidentiary item is seized and forfeited under the Endangered Species Act, 16 U.S.C. 1531 *et seq.*, any person whose act or omission was the basis for the seizure may be charged a reasonable fee for expenses to the United States connected with the transfer, board, handling, or storage of such property. If any fish, wildlife or plant is seized in connection with a violation of the Lacey Act Amendments of 1981, 16 U.S.C. 3371, *et seq.*, any person convicted thereof, or assessed a civil penalty therefor, may be assessed a reasonable fee for expenses of the United States connected with the storage, care and maintenance of such property. Within a reasonable time after forfeiture, the Service shall send to such person by registered or certified mail, return receipt requested, a bill for such fee. The bill shall contain an itemized statement of the applicable costs, together with instructions on the time and manner of payment. Payment shall be made in accordance with the bill. The recipient of any assessment of costs under this section who has an objection to the reasonableness of the costs described in the bill may, within 30 days of the date on which he received the bill, file written objections with the Regional Director of the Fish and Wildlife Service for the Region in which the seizure occurred. Upon receipt of the written objections, the appropriate Regional Director will promptly review them and within 30 days mail his final decision to the party who filed objections. In all cases, the Regional Director's decision shall constitute final administrative action on the matter.

[47 FR 56861, Dec. 21, 1982]

Subpart F—Return of Property

§ 12.51 Return procedure.

If, at the conclusion of the appropriate proceedings, seized property is to be returned to the owner or consignee, the Solicitor or Service shall issue a letter or other document authorizing its return. This letter or other document shall be delivered personally or sent by registered or certified mail, return receipt requested, and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter or other document and proper identification, and the signing of a receipt provided by the Service, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements.

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13.47 Inspection requirement.

Subpart E—Violations of the Permit

13.51 Penalties for violation of a permit, notice; demonstration of compliance.

AUTHORITY: 18 U.S.C. 42; sec. 4, Pub. L. 97-79, 95 Stat. 1074 (16 U.S.C. 3373); sec. 7, Pub. L. 97-79, 95 Stat. 1078 (16 U.S.C. 3376); sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h)(3), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712; sec. 2, 54 Stat. 251, as amended by sec. 9, Pub. L. 95-616, 92 Stat. 3114 (16 U.S.C. 668a); sec. 102, 76 Stat. 73 (19 U.S.C. 1201, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"; sec. 9(d), Pub. L. 93-205, 87 Stat 893 (16 U.S.C 1538(d); sec. 6(a)(1), Pub. L. 96-159, 93 Stat 1228 (16 U.S.C 1537a); E.O. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112, sec. 101, Pub. L. 93-205, 87 Stat. 896, as amended by secs. 2 and 3, Pub. L. 94-359, 90 Stat. 3760; sec. 7, Pub. L. 94-359, 90 Stat. 911 and 912; sec. 5, Pub. L. 95-632, 92 Stat. 3760; sec. 7, Pub. L. 96-159, 93 Stat. 1230 (16 U.S.C 1539); sec. 11, Pub. L. 93-205, 87 Stat. 897, as amended by sec. 6(4), Pub. L. 95-632, 92 Stat. 3761 (16 U.S.C. 1540(b)(2)(f); sec. 13(d), 86 Stat. 905, amending 85 Stat. 480 (16 U.S.C. 742j-1); Title I sec. 112, Pub. L. 92-522, 86 Stat. 1042, as amended by Title II, sec. 201(e), Pub. L. 96-470, 94 Stat. 2241 (16 U.S.C. 1382); 65 Stat. 290 (31 U.S.C. 483(a)).

SOURCE: 39 FR 1161, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 13.1 General.

Each person intending to engage in an activity for which a permit is required by this Subchapter B shall, before commencing such activity, obtain a valid permit authorizing such activity. Each person who desires to obtain the permit privileges authorized by this subchapter must make application for such permit in accordance with the requirements of this Part 13 and the other regulations in this subchapter which set forth the additional requirements for the specific permits desired. If the activity for which permission is sought is covered by the requirements of more than one part of this subchapter, the requirements of each part must be met. If the information required for each specific permitted activity is included, one application will be accepted for all permits required, and a single permit will be issued.

§ 13.2 Purpose of regulations.

The regulations contained in this part will provide uniform rules and procedures for application, issuance, renewal, conditions, revocation, and general administration of permits issuable pursuant to this Subchapter B.

§ 13.3 Scope of regulations.

The provisions in this part are in addition to, and are not in lieu of, other permit regulations of this subchapter and apply to all permits issued thereunder, including "Import and Marking" (Part 14), "Feather Imports" (Part 15), "Injurious Wildlife" (Part 16), "Endangered Wildlife and Plants" (Part 17), "Marine Mammals" (Part 18), "Migratory Birds" (Part 21), "Eagles" (Part 22) and "Endangered Species Convention" (Part 23). As used in this Part 13, the term "permit" shall refer to either a license, permit, or certificate as the context may require.

[42 FR 10465, Feb. 22, 1977, as amended at 42 FR 32377, June 24, 1977; 45 FR 56673, Aug. 25, 1980]

§ 13.4 Emergency variation from requirements.

The Director may approve variations from the requirements of this part when he finds that an emergency exists and that the proposed variations will not hinder effective administration of this Subchapter B, and will not be unlawful.

§ 13.5 Information collection requirements.

The information collection requirements contained within this Part 13 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The obligation to respond is required to obtain or retain a permit.

[47 FR 30785, July 15, 1982]

Subpart B—Application for Permits

§ 13.11 Procedure for obtaining a permit.

(a) *Forms.* Applications must be submitted in writing on a Federal Fish and Wildlife License/Permit Application (Form 3-200) or as otherwise specifically directed by the Service.

(b) *Forwarding instructions.* Applications for permits in the following categories should be forwarded to the issuing office indicated below.

(1) Migratory bird banding permits (50 CFR 21.22)—Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20708. (Special application forms must be used for bird banding permits. They may be obtained by writing to the Bird Banding Laboratory).

(2) Exception to designated port (50 CFR Part 14), import/export license (50 CFR 14.93), migratory bird permit, other than banding (50 CFR Part 21) and Bald or Golden eagle permits (50 CFR Part 22)—Special Agent in Charge of the Law Enforcement District in which the applicant resides (see 50 CFR 10.22 for addresses and boundaries of the Law Enforcement Districts).

(3) Feather quota (50 CFR Part 15), injurious wildlife (50 CFR Part 16), endangered and threatened species (50 CFR Part 17), marine mammal (50 CFR Part 18) and permits and certificates for the Convention on International Trade in Endangered Species (CITES) (50 CFR Part 23)—U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

(c) *Time notice.* Applications for endangered species permits and marine mammal permits should be received by the Federal Wildlife Permit Office at least 75 calendar days prior to the desired effective date of the permit. Applications for other permits should be received by the issuing office at least 30 calendar days prior to the desired effective date. Although the Service will process all applications as quickly as possible, it cannot guarantee final action within such time frames.

(d) *Permit fees.* (1) Applications for permits, certificates, licenses and registrations, and for their renewal and amendment, must be accompanied by an application fee in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Application fees shall not be refunded if the permit is issued or if the application is denied or abandoned. The fee may be returned if an application is withdrawn prior to significant processing by the issuing office.

(2) Application fees shall be $25 unless specified in paragraph (d)(4) of this section as "Nonstandard." Where the regulations in this subchapter require more than one type of permit for a given transaction or series of transactions, the issuing office shall, wherever feasible, issue a single permit containing all the necessary authorizations, and charge a single application fee. In such a case the fee is the highest single permit fee applicable for the transaction. (For example, an application to import an animal which is a marine mammal and an endangered species requires permits under Parts 17 and 18 of this subchapter. The processing of the application will be consolidated and one permit will be issued containing the necessary authorizations under Parts 17 and 18. The fee will be $100, which is the application fee for a marine mammal permit).

(3) A fee shall not be charged to any Federal, State or local government agency, nor to any individual or institution under contract to such agency for the proposed activities. The fee may be waived or reduced for public institutions (see 50 CFR 10.12). Proof of such status must accompany the application.

(4) *Nonstandard fees.*

Type of permit	Fee
Import/Export License (Section 14.93)	$50
Marine Mammal (Section 18.31)	100
Migratory Bird (Part 21)	None
Bald or Golden Eagles (Part 22)	None

[47 FR 30785, July 15, 1982]

§ 13.12 Information requirements on permit applications.

(a) *General information required for all permit applications.* All applications for permits must contain the following information:

(1) Applicant's name, mailing address, and phone number;

(2) Where the applicant is an individual, his date of birth, height, weight, color of hair, color of eyes, and sex; and business or institutional affiliation, if any, having to do with the wildlife or plants to be covered by the permit;

(3) Where the applicant is a corporation, firm, partnership, institution, or agency, either private or public, the name and address of the president or principal officer;

(4) Location where the permitted activity is to be conducted;

(5) Part and section of this Subchapter B under which the permit is requested and such additional information and justification, including supporting documents from appropriate authorities, as required by that section (Paragraph (b) of this section contains a list of sections of this Subchapter B where the additional information needed on applications for various permits may be found.);

(6) Where the permitted activity involves an importation from any foreign country which restricts the taking, possession, transportation, exportation or sale of wildlife or plants, the appropriate documentation, as indicated in § 14.52(c) of this subchapter;

(7) Certification in the following language:

> I hereby certify that I have read and am familiar with the regulations contained in Title 50, Part 13, of the Code of Federal Regulations and the other applicable parts in Subchapter B of Chapter I of Title 50, and I further certify that the information submitted in this application for a permit is complete and accurate to the best of my knowledge and belief. I understand that any false statement hereon may subject me to the criminal penalties of 18 U.S.C. 1001.

(8) Desired effective date of permit except where issuance date is fixed by the part under which the permit is issued;

(9) Date;

(10) Signature of the applicant; and

(11) Such other information as the Director determines relevant to the processing of the application.

(b) *Additional information required on permit applications.* As stated in paragraph (a)(5) of this section certain additional information is required on all applications. These additional requirements may be found by referring to the section of this Subchapter B cited after the type of permit for which application is being made:

Type of permit	Section
Importation at nondesignated ports:	
Scientific	14.31
Deterioration prevention	14.32
Economic hardship	14.33
Marking of package or container:	
Symbol marking	14.83
Import/export license	14.93
Feather import quota: Importation or entry	15.21
Injurious wildlife: Importation or shipment	16.22
Endangered wildlife and plant permits:	
Similarity of appearance	17.52
Scientific, enhancement of propagation or survival, incidental taking for wildlife	17.22
Scientific, propagation, or survival for plants	17.62
Economic hardship for wildlife	17.23
Economic hardship for plants	17.63
Threatened wildlife and plant permits:	
Similarity of appearance	17.52
General for wildlife	17.32
American alligator-buyer or tanner	17.42(a)
American alligator-American alligator in captivity	17.42(a)
General for plants	17.72
Marine mammals permits:	
Scientific research	18.31
Public display	18.31
Migratory bird permits:	
Banding or marking	21.22
Scientific collecting	21.23
Taxidermist	21.24
Waterfowl sale and disposal	21.25
Special aviculturist	21.26
Special purpose	21.27
Falconry	21.28
Raptor propagation permit	21.30
Depredation control	21.41
Eagle permits:	
Scientific or exhibition	22.21
Indian religious use	22.22
Depredation control	22.23
Falconry purposes	22.24
Take of golden eagle nests	22.25
Endangered Species Convention permits	23.15

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 10465, Feb. 22, 1977; 42 FR 32377, June 24, 1977; 44 FR 54006, Sept. 17, 1979; 44 FR 59083, Oct. 12, 1979; 45 FR 56673, Aug. 25, 1980; 45 FR 78154, Nov. 25, 1980; 46 FR 42680, Aug. 24, 1981; 48 FR 31607, July 8, 1983; 48 FR 57300, Dec. 29, 1983; 50 FR 39687, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39687, Sept. 30, 1985, the table in § 13.12(b) was amended by changing the entry for section 17.22 from "Scientific, propagation, or survival for wildlife" to read "Scientific, enhancement of propagation or survival, incidental taking for wildlife", effective October 30, 1985.

§ 13.13 Abandoned applications.

Upon receipt of an incomplete or improperly executed application, the applicant shall be notified of the deficiency in the application. If the applicant fails to supply the deficient information, pay the requisite fee or otherwise fails to correct the deficiency within 60 days following the date of notification, the application shall be considered abandoned.

[47 FR 30785, July 15, 1982]

§ 13.14 Insufficient fee.

No permit shall be issued until the proper fee is received. The reviewing office shall notify the applicant upon discovery that the proper fee has not been received.

[47 FR 30785, July 15, 1982]

Subpart C—Permit Administration

§ 13.21 Issuance of permits.

(a) No permit may be issued prior to the receipt of a written application therefor, unless a written variation from the requirements, as authorized by § 13.4, is inserted into the official file of the Bureau. An oral or written representation of an employee or agent of the United States Government, or an action of such employee or agent, shall not be construed as a permit unless it meets the requirements of a permit as defined in 50 CFR 10.12.

(b) Upon receipt of a properly executed application for a permit, the Director shall issue the appropriate permit unless:

(1) The applicant has been assessed a civil penalty or convicted of any criminal provision of any statute or regulation relating to the activity for which the application is filed, if such

assessment or conviction evidences a lack of responsibility.

(2) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his application;

(3) The applicant has failed to demonstrate a valid justification for the permit and a showing of responsibility;

(4) The authorization requested potentially threatens a wildlife or plant population, or

(5) The Director finds through further inquiry or investigation, or otherwise, that the applicant is not qualified.

(c) Each permit shall bear a serial number. Such number may be reassigned to the permittee to whom issued so long as he maintains continuity of renewal.

(d) The applicant shall be notified in writing of the denial of any application for a permit and the reasons therefor.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977; 47 FR 30785, July 15, 1982]

§ 13.22 Duration of permit.

Permits shall entitle the person to whom issued to engage in the activity specified in the permit, within the limitations of the applicable statute and regulations contained in this Subchapter B, for the period stated on the permit, unless sooner terminated.

§ 13.23 Amendment of applications or permits.

Where circumstances have changed so that an applicant or permittee desires to have any term or condition of his application or permit modified, he must submit in writing full justification and supporting information in conformance with the provisions of this part and the part under which the permit has been issued or requested. Such applications for modification are subject to the same issuance criteria as are original applications, as provided in § 13.21.

§ 13.24 Renewal of permit.

Where the permit is renewable and a permittee intends to continue the activity described in the permit during any portion of the year ensuing its expiration, he shall, unless otherwise notified in writing by the Director, file a request for permit renewal, together with a certified statement that the information in his original application is still currently correct, or a statement of all changes in the original application, accompanied by any required fee at least 30 days prior to the expiration of his permit. Any person holding a valid renewable permit, who has complied with the foregoing provision of this section, may continue such activities as were authorized by his expired permit until his renewal application is acted upon. The Director's intent not to renew a permit or to renew it in substantially amended form shall be made known in writing to the permittee. The written notice shall contain the reasons for the Director's action and shall allow the permittee an opportunity, in writing or in person, to present reasons why the permit should be renewed or should not be substantially amended.

[39 FR 1161, Jan. 4, 1974, as amended at 47 FR 30786, July 15, 1982]

§ 13.25 Permits not transferable; agents.

(a) Permits issued under this part are not transferable or assignable. Some permits authorize certain activities in connection with a business or commercial enterprise and in the event of any lease, sale, or transfer of such business entity, the successor must obtain a permit prior to continuing the permitted activity. However, certain limited rights of succession are provided in § 13.26.

(b) Except as otherwise stated on the face of a permit, any person who is under the direct control of the permittee, or who is employed by or under contract to the permittee for the purposes authorized by the permit, may carry out the activity authorized by the permit.

§ 13.26 Right of succession by certain persons.

(a) Certain persons, other than the permittee, are granted the right to carry on a permitted activity for the remainder of the term of a current permit provided they comply with the provisions of paragraph (b) of this section. Such persons are the following:

(1) The surviving spouse, child, executor, administrator, or other legal representative of a deceased permittee; and

(2) A receiver or trustee in bankruptcy or a court designated assignee for the benefit of creditors.

(b) In order to secure the right provided in this section, the person or persons desiring to continue the activity shall furnish the permit to the issuing officer for endorsement within 90 days from the date the successor begins to carry on the activity.

§ 13.27 Change of mailing address.

During the term of his permit, a permittee may change his mailing address without procuring a new permit. However, in every case notification of the new mailing address must be forwarded to the issuing official within 30 days after such change. This section does not authorize the change of location of the permitted activity for which an amendment must be obtained in accordance with § 13.23.

§ 13.28 Change in name.

A permittee continuing to conduct a permitted activity is not required to obtain a new permit by reason of a mere change in trade name under which a business is conducted or a change of name by reason of marriage or legal decree: *Provided,* That such permittee must furnish his permit to the issuing official for endorsement within 30 days from the date the permittee begins conducting the permitted activity under the new name.

§ 13.29 Official endorsement of changes required.

Any change in a permit must be made by endorsement of the Director or issuing officer. Any modification or change in an issued permit, other than those specifically provided for in this subpart, may be granted or denied in the discretion of the Director.

§ 13.30 Certain continuancy of activity.

A permittee who furnishes his permit to the issuing official for endorsement or correction in compliance with the provisions of this subpart may continue his operations pending its return.

§ 13.31 Discontinuance of activity.

When any permittee discontinues his activity, he shall, within 30 days thereof, mail his permit and a request for cancellation to the issuing officer, and said permit shall be deemed void upon receipt. No refund of any part of an amount paid as a permit fee shall be made where the operations of the permittee are, for any reason, discontinued during the tenure of an issued permit.

§ 13.32 Appeal procedure.

(a) Any person in the following categories may appeal the Service's action:

(1) An applicant who has received written notice that his application has been denied;

(2) A permittee or applicant who has received written notice that a requested amendment of a term or condition of his permit has been denied;

(3) A permittee who has been notified that his permit has been recalled, amended on the Service's motion, revoked or suspended during its term;

(4) A permittee whose permit or amendment has been issued, but who has not been authorized to conduct part of the requested activity, or believes that modifications made to the requested activity are unacceptable.

(b) The appeal shall be submitted in writing to the office which took the action being appealed within 60 days of the date of notification of the action taken. It must address the reasons given for such action but may also contain new information or justification why the action in question should not be taken. Such further submissions shall not be considered a new application.

(c) A decision on the appeal shall be made within 30 days of receipt of the appeal and the issuing office shall notify the appellant in writing of its decision, and the reasons therefor.

(d) If the decision is not in favor of the appellant, the appeal file shall be forwarded by the issuing office to the Regional Director or Director as appropriate.

(e) The Regional Director or the Director may utilize such staff as necessary in assisting him to decide on the appeal. He may delegate this decision as authorized by Service procedure, provided that it may not be delegated to the issuing office. The appellant may offer arguments or additional evidence to the Regional Director or the Director, in writing or in person.

(f) The decision of the Regional Director or the Director shall be made within 60 days of receipt of appeals pursuant to paragraph (d) of this section and promptly communicated in writing to the appellant, along with the reasons therefor, except that the Regional Director or Director may extend the 60-day period for good cause notified in writing to the appellant.

(g) The decision of the Regional Director or the Director shall constitute the final administrative decision of the department.

[47 FR 30786, July 15, 1982]

Subpart D—Conditions

§ 13.41 Recall and amendment of permit during its term.

Except for marine mammal permits (See Part 18), all permits are issued subject to the condition that the Service reserves the right to recall and amend the provisions of a permit for just cause at any time during its term. Such amendments take effect on the date of notification, unless otherwise specified. Permittees shall be notified in writing of such intent and the reasons therefor not less than 30 days prior to the proposed date of such action and shall be allowed an opportunity, in writing or in person, to present reasons why the permit should not be recalled or amended.

[47 FR 30786, July 15, 1982]

§ 13.42 Permits are specific.

The authorizations on the face of a permit which set forth specific times, dates, places, methods of taking, numbers and kinds of wildlife or plants, location of activity, authorize certain circumscribed transactions, or otherwise permit a specifically limited matter, are to be strictly construed and shall not be interpreted to permit similar or related matters outside the scope of strict construction.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977]

§ 13.43 Alteration of permits.

Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid. Unless specifically permitted on the face thereof, no permit shall be copied, nor shall any copy of a permit issued pursuant to this Subchapter B be displayed, offered for inspection, or otherwise used for any official purpose for which the permit was issued.

§ 13.44 Display of permit.

Any permit issued under this part shall be displayed for inspection upon request to the Director or his agent, or to any other person relying upon its existence.

§ 13.45 Filing of reports.

Permittees may be required to file reports of the activities conducted under the permit. Any such reports shall be filed not later than March 31 for the preceding calendar year ending December 31, or any portion thereof, during which a permit was in force, unless the regulations of this Subchapter B or the provisions of the permit set forth other reporting requirements.

§ 13.46 Maintenance of records.

From the date of issuance of the permit, the permittee shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of plants obtained from the wild (excluding seeds) or wildlife pursuant to such permit. Such records shall be kept current and shall include names and addresses of persons with whom any plant obtained from the wild (excluding seeds) or wildlife has been purchased, sold, bartered, or otherwise transferred, and the date of such transaction, and such other information as may be required or appropriate. Such records, unless otherwise specified, shall be entered in books, legibly written in the English language. Such records shall be retained for 5 years from the date of issuance of the permit.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977]

§ 13.47 Inspection requirement.

Any person holding a permit under this Subchapter B shall allow the Director's agent to enter his premises at any reasonable hour to inspect any wildlife or plant held or to inspect, audit, or copy any permits, books, or records required to be kept by regulations of this Subchapter B.

[39 FR 1161, Jan. 4, 1974, as amended at 42 FR 32377, June 24, 1977]

Subpart E—Violations of the Permit

§ 13.51 Penalties for violation of a permit, notice; demonstration of compliance.

(a) Any violation of the applicable provisions of this subchapter, or of the statute under which the permit was issued, or a condition of the permit, may subject the permittee to the following penalties:

(1) The penalty provided in the statute under which the permit was issued;

(2) Temporary suspension of the permit for a specified period; and

(3) Revocation of the permit. When revoked, permits must be surrendered to the Director on demand.

(b) Except in cases of willfullness or those in which the public health safety or interest requires, and prior to any suspension or revocation of a permit, the permittee shall be given:

(1) Notice by the Service in writing of the facts or conduct which may warrant the suspension or revocation; and

(2) Opportunity to demonstrate or achieve compliance with all permit requirements.

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Subpart A—Introduction

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Subpart B—Importation and Exportation at Designated Ports

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14.20 Exceptions by permit.
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14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.
14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.
14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Wildlife

14.51 Inspection of wildlife.
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14.61 Import declaration requirements.
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Subpart G—[Reserved]

Subpart H—Marking of Containers

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14.83 Symbol marking permit.

Subpart I—Import/Export Licenses

14.91 License requirement.
14.92 Exceptions to license requirement.
14.93 License application procedure, conditions, and duration.

AUTHORITY: Lacey Act (18 U.S.C. 42-44); Endangered Species Act of 1973 (16 U.S.C. 1538(d)-(f), 1540(f)); Marine Mammal Protection Act of 1972 (16 U.S.C. 1382); Migratory Bird Treaty Act (16 U.S.C. 704, 712); Act of August 31, 1951, Ch. 376, Title 5, sec. 501 (31 U.S.C. 483a); Black Bass Act (16 U.S.C. 852c).

SOURCE: 45 FR 56673, Aug. 25, 1980, unless otherwise noted.

Subpart A—Introduction

§ 14.1 Purpose of regulations.

The regulations contained in this part provide uniform rules and procedures for the importation, exportation, and transportation of wildlife.

§ 14.2 Scope of regulations.

The provisions in this part are in addition to, and do not supersede other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and transportation of wildlife.

Subpart B—Importation and Exportation at Designated Ports

§ 14.11 General restrictions

Except as otherwise provided in this part, no person may import or export any wildlife at any place other than a Customs port of entry designated in § 14.12.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.12 Designated ports.

The following Customs ports of entry are designated for the importation or exportation of wildlife and are referred to hereafter as "designated ports:"

(a) Los Angeles, California;
(b) San Francisco, California;
(c) Miami, Florida;
(d) Honolulu, Hawaii;
(e) Chicago, Illinois;
(f) New Orleans, Louisiana;
(g) New York, New York;
(h) Seattle, Washington; and
(i) Dallas/Fort Worth, Texas.

[45 FR 56673, Aug. 25, 1980, as amended at 46 FR 43835, Sept. 1, 1981]

§ 14.13 Emergency diversion.

Wildlife which has been imported into the United States at any port or place other than a designated port solely as a result of a diversion due to an aircraft or vessel emergency must proceed as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

§ 14.14 In-transit shipments.

(a) Wildlife destined for a point within the United States may be imported into the United States at any port if such wildlife proceeds as an in-transit shipment under Customs bond to a designated port, or to any port where a permit or other provision of this part provides for lawful importation.

(b) Wildlife moving in-transit through the United States from one foreign country to another foreign country is exempt from the designated port requirements of this part, if such wildlife is not unloaded within the United States.

§ 14.15 Personal baggage and household effects.

(a) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage may be imported into or exported from the United States at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw or dressed fur; raw, salted or crusted hide or skin; game trophy; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

(b) Wildlife products or manufactured articles, including mounted game trophies or tanned hides, which are not intended for sale and are part of a shipment of the household effects of persons moving their residence to or from the United States may be imported or exported at any Customs port of entry. However, this exception to the designated port requirement does not apply to any raw fur; raw, salted, or crusted hide or skin; or to wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B.

§ 14.16 Border ports.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Canada or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Alaska—Alcan;

(2) Idaho—Eastport;

(3) Maine—Calais, Houlton, Jackman;

(4) Massachusetts—Boston;

(5) Michigan—Detroit, Port Huron, Sault Sainte Marie;

(6) Minnesota—Grand Portage, International Falls, Minneapolis-St. Paul;

(7) Montana—Raymond, Sweetgrass;

(8) New York—Buffalo-Niagara Falls, Champlain;

(9) North Dakota—Dunseith, Pembina, Portal;

(10) Ohio—Cleveland;

(11) Vermont—Derby Line, Highgate Springs; and

(12) Washington—Blaine, Sumas.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife whose country of origin is Mexico or the United States may be imported or exported at any of the following Customs ports of entry:

(1) Arizona—Lukeville, Nogales;

(2) California—Calexico, San Diego-San Ysidro; and

(3) Texas—Brownsville, El Paso, Laredo.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, or 21 of this Subchapter B, wildlife lawfully taken by U.S. residents in the United States, Canada, or Mexico and imported or exported for noncommercial purposes, may be imported or exported at any Customs port of entry.

§ 14.17 Personally owned pet birds.

Any person may import a personally owned pet bird at any port designated under, and in accordance with, 9 CFR Part 92.

§ 14.18 Marine mammals.

Any person subject to the jurisdiction of the United States who has lawfully taken a marine mammal on the high seas and who is authorized to import such marine mammal in accordance with the Marine Mammal Protection Act of 1972 and implementing regulations (50 CFR Parts 18 and 216) may import such marine mammal at any port or place.

§ 14.19 Special ports.

(a) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which is imported for final destination in Alaska, Puerto Rico, or the Virgin Islands, may be imported through those Customs ports of entry named hereafter for the respective State or Territory of final destination:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;

(2) Puerto Rico—San Juan; and

(3) Virgin Islands—San Juan, Puerto Rico.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which originates in Alaska, Puerto Rico, or the Virgin Islands, may be exported through the following Customs ports for the respective State or Territory:

(1) Alaska—Alcan, Anchorage, Fairbanks, Juneau;

(2) Puerto Rico—San Juan; and

(3) Virgin Islands—San Juan, Puerto Rico.

(c) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, wildlife which has a final destination of Guam or which originates in Guam may be imported or exported, as appropriate, through the port of Agana, Guam.

§ 14.20 Exceptions by permit.

Wildlife may be imported into or exported from the United States at any Customs port of entry designated in the terms of a valid permit issued pursuant to Subpart G of this part.

§ 14.21 Shellfish and fishery products.

Except for wildlife requiring a permit pursuant to Part 17 of this subchapter, shellfish and fishery products, imported or exported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes may be imported or exported at any Customs port of entry.

§ 14.22 Certain antique articles.

Any person may import any article (other than scrimshaw, which is hereby defined as any art form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea) that was made before 1830, is composed in whole or in part of any endangered or threatened species listed under § 17.11 or § 17.12 of this subchapter, and has not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973, at any port designated by the U.S. Customs Service for the importation of such antique articles.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

Subpart C—Designated Port Exception Permits

§ 14.31 Permits to import or export wildlife at nondesignated port for scientific purposes.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife for scientific purposes at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port for scientific purposes must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The scientific purpose or uses of the wildlife to be imported or exported;

(2) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port; and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following condition: Permittee shall file such reports as specified on the permit, if any.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Benefit to a *bona fide* scientific research project, other scientific purpose, or facilitation of the exchange of preserved museum specimens;

(2) The kind of wildlife involved and its place of origin;

(3) The reasons why the exception is requested; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

§ 14.32 Permits to import or export wildlife at nondesignated port to minimize deterioration or loss.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife, in order to minimize deterioration or loss, at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to minimize deterioration or loss must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported where such number and kinds can be determined;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show that an importation or exportation at a designated port would result in a substantial deterioration or loss of the wildlife); and

(4) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are to be subject to the following conditions:

(1) Permittee shall file such reports as may be specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Likelihood of a substantial deterioration or loss of the wildlife involved;

(2) The kind of wildlife involved and its place of origin; and

(3) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid more than 2 years from the date of issuance.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.33 Permits to import or export wildlife at nondesignated port to alleviate undue economic hardship.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, and in accordance with the issuance criteria of this section, issue a permit authorizing importation or exportation of wildlife in order to alleviate undue economic hardship at one or more named Customs port(s) of entry not otherwise authorized by Subpart B. Such permits may authorize a single importation or exportation, a series of importations or exportations, or importation or exportation during a specified period of time.

(b) *Application procedure.* Applications for permits to import or export wildlife at a nondesignated port to alleviate undue economic hardship must be submitted to the Director. Each application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) The number and kinds of wildlife described by scientific and common names to be imported or exported, where such number and kinds can be determined, and a description of the form in which it is to be imported, such as "live," "frozen," "raw hides," or a full description of any manufactured product;

(2) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(3) The name and address of the supplier or consignee;

(4) The port(s) of entry where importation or exportation is requested, and the reasons why importation or exportation should be allowed at the requested port(s) of entry rather than at a designated port (information must be included to show the monetary difference between the cost of importation or exportation at the port requested and the lowest cost of importation or exportation at the port through which importation or exportation is authorized by Subpart B without a permit); and

(5) A statement as to whether the exception is being requested for a single shipment, a series of shipments, or shipments over a specified period of time and the date(s) involved.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or export wildlife at a nondesignated port issued under this section are subject to the following conditions:

(1) Permittee shall file such reports as specified on the permit, if any; and

(2) Permittee shall pay costs incurred by the Director in inspecting permittee's importations or exportations at nondesignated ports, including salary, overtime, transportation and per diem of Service officers.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) The difference between the cost of importing or exporting the wildlife at the port requested and the lowest cost of importing or exporting such wildlife at a port authorized by these regulations without a permit;

(2) The severity of the economic hardship that likely would result should the permit not be issued;

(3) The kind of wildlife involved, including its form and place of origin; and

(4) Availability of a Service officer.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

Subpart D—[Reserved]

Subpart E—Inspection and Clearance of Wildlife

§ 14.51 Inspection of wildlife.

Subject to applicable limitations of law, Service officers and Customs officers may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.52 Clearance of imported wildlife.

(a) Except as otherwise provided by this subpart, all wildlife imported into the United States must be cleared by a Service officer prior to release from detention by Customs officers. Such clearance does not constitute a certification of the legality of an importation under the laws or regulations of the United States.

(b) Clearance by a Service officer may be obtained only at designated ports (§ 14.12), at border ports (§ 14.16), at special ports (§ 14.19), or at a port where importation is authorized by a permit issued under Subpart C of this part. Any wildlife released without a Service officer's clearance or clearance by Customs for the Service under authority of § 14.54 must be returned forthwith to a port where clearance may be obtained pursuant to this subpart.

(c) To obtain clearance, the importer, or the importer's agent, shall make available to a Service officer or Customs officers acting under § 14.54:

(1) All shipping documents (including bills of lading, waybills and packing lists or invoices);

(2) All permits or other documents required by the laws or regulations of the United States;

(3) All permits or other documents required by the laws or regulations of any foreign country; and

(4) The wildlife being imported.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.53 Refusal of clearance.

Any Service officer, or Customs officers acting under § 14.54, may refuse clearance of imported wildlife when there are reasonable grounds to believe that:

(a) A Federal law or regulation has been violated;

(b) The correct identity of the wildlife has not been established (in such cases, the burden is upon the owner, importer, or consignee to establish such identity);

(c) Any permit or other documentation required for clearance of such wildlife is not available or is not authentic; or

(d) The importer, or the importer's agent, has filed an incorrect or incomplete declaration for importation as provided in § 14.61.

§ 14.54 Unavailability of Service officers.

(a) *Designated ports.* All wildlife arriving at a designated port must be cleared by a Service officer before Customs clearance and release. However, if a Service officer is not available within a reasonable time, live wildlife may be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(b) *Border and special ports.* Wildlife lawfully imported at Canadian or Mexican border ports under § 14.16, or into Alaska, Puerto Rico, or the Virgin Islands, under § 14.19, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(c) *Permit imports.* Wildlife imported at a nondesignated port in accordance with the terms of a valid permit issued under Subpart C of this part, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(d) *Personal baggage and household effects.* Wildlife lawfully imported at any port of entry under § 14.15, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

(e) *Personally owned pet birds.* Personally owned pet birds lawfully imported at a port of entry under § 14.17, may, if a Service officer is not available within a reasonable time, be cleared by Customs officers, subject to post-clearance inspection and investigation by the Service.

§ 14.55 Exceptions to clearance requirements.

Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, clearance is not required for the importation of the following wildlife:

(a) Shellfish and fishery products imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Marine mammals lawfully taken on the high seas by United States residents and imported directly into the United States; and

(c) Certain antique articles as specified in § 14.22 which have been released from custody by Customs officers under 19 U.S.C. 1499.

Subpart F—Wildlife Declarations

§ 14.61 Import declaration requirements

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177), signed by the importer or the importer's agent, shall be filed with the Service at the time and place where clearance under § 14.52 is requested, unless the wildlife is to be transshipped under bond to a different port for release from custody by Customs officers under 19 U.S.C. 1499 or is a certain antique article as specified in § 14.22, in which case the Form 3-177 shall be filed with the District Director of Customs at that port before release from Customs custody. All applicable information requested on the Form 3-177 shall be furnished, and the importer, or the importer's agent, shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

§ 14.62 Exceptions to import declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for importation of shellfish and fishery products imported for purposes of human or animal consumption, or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes;

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this subchapter B, a Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for importation of the following:

(1) Fish taken for recreational purposes in Canada or Mexico;

(2) Game mammals or birds from Canada or Mexico for which a Declaration for Free Entry of Game Mammals or Birds Killed by United States Residents (Customs Form 3315) has been filed with the U.S. Customs Service;

(3) Wildlife products or manufactured articles which are not intended for sale and are worn as clothing or contained in accompanying personal baggage, except that a Form 3-177 must be filed for raw or dressed furs; for raw, salted, or crusted hides or skins; and for game or game trophies where the exception in paragraph (b)(2) of this section does not apply; and

(4) Wildlife products or manufactured articles which are not intended for sale and are a part of a shipment of the household effects of persons moving their residence to the United States, except that a declaration must be filed for raw or dressed furs; and for raw, salted, or crusted hides or skins.

(c) *General declarations for certain specimens.* Notwithstanding the provisions of § 14.61, scientific specimens imported for scientific institutions for taxonomic or faunal survey purposes may be described in general terms on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177), provided an amended Form 3-177 specifically describing the wildlife imported is submitted to the Service within 180 days after the filing of the general declaration. Extensions of this 180 day period may be granted by the Director.

[45 FR 56673, Aug. 25, 1980; 45 FR 64953, Oct. 1, 1980]

§ 14.63 Export declaration requirements.

Except as otherwise provided by the regulations of this subpart, a completed Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177) signed by the exporter, or the exporter's agent, shall be filed with the Service prior to the export of any wildlife at the port of exportation as authorized in Subpart B of this part. All applicable information requested on the Form 3-177 shall be furnished, and the exporter or the exporter's agent shall certify that the information furnished is true and complete to the best of his/her knowledge and belief.

§ 14.64 Exceptions to export declaration requirements.

(a) Except for wildlife requiring a permit pursuant to Part 17 of this Subchapter B, a Declaration for Importation or Exportation of Fish and Wildlife (form 3-177) does not have to be filed for the exportation of shellfish and fishery products imported or exported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes.

(b) Except for wildlife requiring a permit pursuant to Part 16, 17, 18, 21, or 23 of this Subchapter B, a Declaration for the Importation or Exportation of Fish or Wildlife (Form 3-177) does not have to be filed for the exportation of the following:

(1) Wildlife which is not intended for sale where the value of such wildlife is under $250; and

(2) Wildlife products or manufactured articles, including game trophies, which are not intended for sale and are worn as clothing or contained in accompanying personal baggage or are part of a shipment of the household effects of persons moving their residence from the United States.

Subpart G—[Reserved]

Subpart H—Marking of Containers

§ 14.81 Marking requirement.

Except as otherwise provided in this subpart, no person may ship, transport, carry, bring or convey any wildlife in interstate or foreign commerce unless the package or container in which such wildlife is contained has the name and address of the shipper and consignee and an accurate statement of the contents by species and numbers of each species of wildlife therein contained clearly and conspicuously marked on the outside thereof.

§ 14.82 Exceptions and alternatives to the marking requirement.

(a) The requirements of § 14.81 may also be met by (1) conspicuously marking on the outside of each package or container the word "Fish" (or "Wildlife" as appropriate) or the common name and (2) securely attaching to the outside of one package or container in the shipment an invoice or packing list which contains the name and address of the consignee and shipper and which accurately states the number or other appropriate measure of quantity of each species contained in the shipment.

(b) The requirements of § 14.81 do not apply to packages or containers containing:

(1) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products, that have been bred and born in captivity if a signed statement certifying that the animals were bred and born in captivity accompanies the shipping documents;

(2) Furs, hides or skins that are shipped, transported, carried, brought or conveyed in interstate commerce if the names and addresses of the shipper and consignee are clearly and conspicuously marked on the outside thereof; and

(3) Wildlife shipped, transported, carried, brought, or conveyed in interstate or foreign commerce where such packages or containers are clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued pursuant to § 14.83.

§ 14.83 Symbol marking permit.

(a) *General.* The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the use of an identification symbol in lieu of the marking required by § 14.81.

(b) *Application procedures.* Applications for symbol marking permits must be submitted to the Director. Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) The estimated number and kinds of wildlife to be transported in interstate or foreign commerce, described by scientific and common names;

(2) Form in which transported, such as "raw skins," "fur garments," "pearl strands," or "fine leather goods;"

(3) The country or place in which the wildlife was removed from the wild (if known), or where born in captivity;

(4) A detailed statement of the reasons why the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(5) At the option of the applicant, a suggested symbol which is desired; provided that assignment of such symbol is subject to the discretion of the Director.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to use symbol marking are subject to the following special conditions:

(1) The entire symbol must be clearly and conspicuously marked on the outside of each package;

(2) The symbol, together with other identifying numbers or characters, must appear on all shipping documents relating to the packages or containers, and on all declarations required by §§ 14.61 and 14.63; and

(3) The permittee shall, from the effective date of the permit, maintain complete and accurate records of all wildlife identified by the symbol which is actually shipped, transported, carried, brought, or conveyed in interstate or foreign commerce. The records must include a general description of the form of the wildlife, the number of items, the common and scientific names, a description of the package or container, the method of shipment, the date and place of shipment, and the air waybill or bill of lading number. Subject to applicable limitations of law, such records shall be open to inspection, auditing, or copying by Service officers during regular business hours.

(d) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit under this section:

(1) Whether the marking required by § 14.81 would create a significant possibility of theft of the package or its contents; and

(2) The kind of wildlife involved and its place of origin.

(e) *Duration of permits.* Any permit issued under this section expires on the date designated on the face of the permit. In no case will the permit be valid for more than 2 years from the date of issuance.

Subpart I—Import/Export Licenses

§ 14.91 License requirement.

(a) *Prohibition.* Except as otherwise provided in this subpart, it is unlawful after December 31, 1980, for any person to engage in business as an importer or exporter of wildlife without first having obtained a valid import/export license from the Director.

(b) *Definition.* As used in this subpart, the phrase "engage in business as an importer or exporter of wildlife" means for a person to devote time, attention, labor, or effort to any activity for gain or profit that involves the importation or exportation of wildlife whether or not such person is an importer or exporter within the meaning of the customs laws of the United States.

(c) *Certain persons required to be licensed.* The definition in paragraph (b) of this section includes, but is not limited to, persons who engage in the following activities:

(1) Persons importing or exporting wildlife for trade, sale, or resale, such as animal dealers, animal brokers, pet dealers and pet suppliers, and laboratory research suppliers:

(2) Persons importing or exporting wildlife in the form of fur for tanning, manufacture, or sale, such as fur trappers, fur dealers, fur brokers, and fur manufacturers;

(3) Persons importing or exporting wildlife in the form of hides and skins for tanning, manufacture, or sale, such as hide and skin dealers, hide and skin brokers, leather dealers, and leather brokers;

(4) Persons importing or exporting wildlife products (such as garments, bags, shoes, boots, jewelry, rugs, or curios) for sale, such as wholesalers, retailers, distributors, and brokers:

(5) Taxidermists importing or exporting wildlife in connection with the mounting, processing, or storage of trophies or specimens; and

(6) Freight forwarders.

§ 14.92 Exceptions to license requirement.

(a) *Certain wildlife.* Any person may engage in business as an importer or exporter of the following wildlife without procuring an import/export license:

(1) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are imported or exported for purposes of human or animal consumption;

(2) Shellfish and fishery products which do not require a permit under Part 17 of this Subchapter B and which are taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes; and

(3) Fox, nutria, rabbit, mink, chinchilla, marten, fisher, muskrat, and karakul or their products if the animals have been bred and born in captivity.

(b) *Certain persons.* The following persons may engage in business as importers or exporters of wildlife without procuring an import/export license: *Provided,* That such persons keep such records as will fully and correctly disclose each importation or exportation of wildlife made by them and the subsequent disposition made by them with respect to the wildlife, and that subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to such persons' places of business, an opportunity to examine their inventory of imported wildlife and the records required above, and an opportunity to copy such records:

(1) Common carriers;

(2) Customs house brokers;

(3) Public museums, or other public, scientific or educational institutions, importing or exporting wildlife for research or educational purposes and not for resale;

(4) Federal, State, or municipal agencies;

(5) Circuses importing or exporting wildlife for exhibition purposes only and not for purchase, sale, or transfer of such wildlife.

(6) Any person if the value [as declared on the Declaration for Importation or Exportation of Fish or Wildlife (Form 3-177)] of the wildlife that person imports and exports during a calendar year totals less than $25,000.

[45 FR 56673, Aug. 25, 1980, as amended at 45 FR 86497, Dec. 31, 1980]

§ 14.93 License application procedure, conditions, and duration.

(a) *General.* The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a license authorizing the applicant to engage in business as an importer or exporter of wildlife.

(b) *Application procedure.* Applications for import/export licenses must be submitted to the appropriate Special Agent in Charge (see § 10.22 of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter, plus the following additional information:

(1) A brief description of the nature of the applicant's business as it relates to the importation or exportation of wildlife, e.g., "live animal dealer," "fur broker," "taxidermist," "retail department store," and "pet shop;"

(2) If the application is in the name of a business, a statement disclosing the names and addresses of all partners and principal officers;

(3) A statement of where books or records concerning wildlife imports or exports will be kept;

(4) A statement of where inventories of wildlife will be stored; and

(5) Name, address, and telephone number of the officer, manager, or other person authorized to make records or wildlife inventories available for examination by Service officials.

(c) *Applications for licenses received by the Service on or before December 31, 1980.* If a complete application for an import/export license is received by the appropriate Special Agent in Charge on or before December 31, 1980, the applicant may engage in business as an importer or exporter of wildlife until the application has been finally acted upon by the Service.

(d) *Additional license conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, import/export licenses are subject to the following special conditions:

(1) The licensee shall, from the effective date of the license, keep such records as will fully and correctly dis-

close each importation or exportation of wildlife made by the licensee and the subsequent disposition made by the licensee with respect to such wildlife. The records must include a general description of the form of the wildlife, such as "live," "raw hides," or "fur garments;" the quantity of wildlife, in numbers, weight, or other appropriate measure; the common and scientific names; the country or place of origin of the wildlife, if known; the date and place of import or export; the date of the subsequent disposition of the wildlife; the manner of disposition, whether by sale, barter, consignment, loan, delivery, destruction, or other means; and the name and address of the person who received the wildlife pursuant to such disposition, if applicable;

(2) Licensees shall include and retain in their records copies of all permits required by the laws and regulations of the United States and any country of export or origin;

(3) Licensees shall maintain such books and records for a period of five years;

(4) Subject to applicable limitations of law, duly authorized Service officers at all reasonable times shall, upon notice, be afforded access to the licensee's places of business, an opportunity to examine the licensee's inventory of imported wildlife and the records required to be kept under paragraph (d)(1) of this section, and an opportunity to copy such records;

(5) Licensees shall, upon written request by the Director, submit within 60 days of such request a report containing the information required to be maintained by paragraph (d)(1) of this section; and

(6) An import/export license is only permission to engage in business as an importer or exporter of wildlife. Such a license is in addition to, and does not supersede, any other requirement established by law for the importation or exportation of wildlife.

(e) *Duration of license.* Any license issued under this section expires on the date designated on the face of the license. In no case will the license be valid for more than 2 years from the date of issuance.

(f) *Issuance, denial, suspension, revocation, or renewal of license.* Additional provisions governing the issuance, denial, suspension, revocation, and renewal of an import/export license are found in Part 13 of this Subchapter B.

PART 15—FEATHER IMPORT QUOTAS

Subpart A—Introduction

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15.2 Scope of regulations.

Subpart B—Import Quotas and Permit Requirement

15.11 Import quotas established.
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Subpart C—Application for and Allocation of Quotas

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15.23 Allocation of calendar year quotas.
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15.26 Tenure of importation permits.

AUTHORITY: Tariff Classification Act of 1962, sec. 102, 76 Stat. 73-74, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States."

SOURCE: 39 FR 1168, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 15.1 Purpose of regulations.

The regulations contained in this part establish annual quotas on importation of skins bearing feathers of the mandarin duck, and five species of pheasants. These regulations also govern applications for and issuance of permits for the entry of such birdskins and establish the method which will be used to allocate and reallocate any unused portions of the annual quotas among the several applicants.

§ 15.2 Scope of regulations.

(a) The regulations of this part apply only to the feathers or skins of those species of birds named in § 15.11:

(1) Whether raw or processed;

(2) Whether the whole plumage or skin or any part of either;

(3) Whether or not attached to a whole bird or any part thereof; and

(4) Whether or not forming part of another article.

(b) The regulations of this Part 15 do not apply:

(1) To any importation for scientific or educational purposes;

(2) To the importation of fully manufactured artificial flies used for fishing.

(3) To the importation of game birds killed by United States hunters abroad, and imported by such persons for noncommercial purposes.

(4) To the importation of live birds; and

(5) To the importation of any of the following birds (other than any such bird which, whether or not raised in captivity, is a wild bird): Chickens (including hens and roosters), turkeys, guinea fowl, geese, ducks, pigeons, ostriches, rheas, English ring-necked pheasants, and pea fowl.

(c) The provisions in this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13 of this subchapter).

Subpart B—Import Quotas and Permit Requirement

§ 15.11 Import quotas established.

During any calendar year, beginning January 1 and ending December 31, the following quotas are established for the entry of skins bearing feathers. For the purpose of these quotas any part of a skin which has been severed shall be considered a whole skin.

(a) For use in the manufacture of artificial flies used for fishing:

Grey jungle fowl (*Gallus sonnerati*)—none (quota eliminated)
[1]Mandarin duck (*Aix galericulata*)—1,000

[1] Former scientific name: *Dendronessa-galericulata.*

(b) For use in the manufacture of artificial flies used for fishing or for millinery purposes:

Lady Amherst pheasant (*Chrysolophus amherstiae*)[1]
Golden pheasant (*Chrysolophus pictus*)[1]
Silver pheasant (*Lophura nycthemera*)[1]
Reeves pheasant (*Syrmaticus reevesii*)[1]
Blue-eared pheasant (*Crossoptilon auritum*)[1]
Brown-eared pheasant (*Crossoptilon mantchuricum*)———————none (quota eliminated)

[1] 45,000 in the aggregate.

§ 15.12 Permit requirement.

Except as otherwise provided in this section, no person shall import, enter, or cause to be imported or entered, feathers, skins, or skins bearing feathers of any species listed in § 15.11 without a permit issued pursuant to this part: *Provided*, That any person may import without a permit, for storage in warehouse under customs bond, skins bearing feathers of species for which a quota is provided in the preceding § 15.11. When so imported and stored, such skins shall not be removed from the warehouse or entered into the United States for use without a permit issued pursuant to this part. No person shall import for warehouse storage or other purpose skins bearing feathers of any species on which the quota has been eliminated.

Subpart C—Application for and Allocation of Quotas

§ 15.21 Application for quota allocation and permit.

All persons desiring to share in the allocation of annual import quotas and to obtain a permit to enter skins bearing feathers shall submit an application to the Director during the period set forth by § 15.22. Each such application shall contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(a) Quantity of each species of birdskin or part thereof for which an importation permit is requested;

(b) Port at which entry will be made, or in the case of warehouse storage under bond, port at which importation was made and location and amount of birdskins presently in storage;

(c) Statement of the purpose (use) for which the skins bearing feathers are sought to be imported or entered; and

(d) Statement as to whether application is being made for an initial allocation of a calendar year quota, or for reallocation of an unused portion of a calendar year quota.

§ 15.22 Filing dates for applications.

Each application for a quota allocation and permit must be postmarked during the dates set forth in paragraphs (a) and (b) of this section in order to be considered.

(a) Applicants desiring to participate in the allocation of calendar year quotas shall submit applications from September 1 through September 30 of the year preceding the calendar year for which quota allocations are to be made.

(b) Applicants desiring to participate in the reallocation of such portions of the established annual quotas as may become available for reallocation, shall submit applications from July 1 through July 31 of the calendar year during which the unused portion of the quota becomes available for reallocation.

§ 15.23 Allocation of calendar year quotas.

As promptly as possible after the closing date for filing, all applications timely filed will be considered and tentative quotas allocated by the method set forth in paragraphs (a) through (e) of this section. For the purposes of this section, the species of pheasants for which quotas have been provided shall be grouped together and considered as one species.

(a) The number of eligible applicants for skins of mandarin duck and pheasants, respectively, shall be divided into the quotas of skins available for the ensuing calendar year for the respective species, to determine the number of skins of each species the several applicants would be entitled to import on an equal basis.

(b) Any applicant for an allocation in an amount equal to or less than the average quantity established for all applicants pursuant to paragraph (a) of this section is entitled to receive an allocation of the quantity for which he applied.

(c) After the allocations are made under paragraph (b) of this section, all remaining unallocated quantities of skins of the respective species shall be allocated equally among those applicants who applied for more than the average quantities determined under paragraph (a) of this section. However, no applicant shall be allocated a quantity of skins in excess of the number applied for.

(d) Each applicant shall then be furnished a tabulation by registered or certified mail, return receipt requested, of the quantities of each species requested and the quantities proposed to be allocated to each applicant. Each applicant must then report by letter addressed to the Director, postmarked not later than 30 days after date of receipt of the notice of proposed allocations, that he accepts the proposed allocation. The letter must contain satisfactory proof, such as a copy of a currently confirmed order, that orders have been placed for the importing of his allocation of bird skins. Applicant's failing to respond to the notice of proposed allocations shall be deemed to have withdrawn their applications. Applicants who submit the required showing by other than registered or certified mail, do so at their own risk.

(e) Any quantities of birdskins of the respective species which become available for allocation through the failure of applicants to submit the proper showing as required in paragraph (d) of this section, shall promptly be allocated among those applicants whose requests were not satisfied in full, using the methods prescribed in paragraphs (a) through (c) of this section to determine the additional quantity of skins allowable to each such applicant.

[39 FR 1168, Jan. 4, 1974, as amended at 39 FR 37056, Oct. 17, 1974]

§ 15.24 Reallocation of unused calendar year quotas.

Any portion of the calendar year quotas which may become available for reallocation through surrender or nonuse, in whole or in part, of permits expiring on June 30 of any year, shall be reallocated as promptly as possible after the closing date for filing among applicants who have submitted proper applications in accordance with § 15.21. Such reallocations shall be made by the method prescribed in § 15.23 (a) through (c). If the quantities of the respective species of birdskins are insufficient to permit reallocation among all applicants by such method, preference shall be given to those applications bearing the earliest postmark.

§ 15.25 Issuance of permits.

As soon as practicable after the annual quota allocations or reallocations have been determined, the quotas allocated to successful applicants shall be evidenced by permits issued to the applicant with copies forwarded to the respective District Directors of Customs at the ports of entry specified in the applications. Such permits shall authorize the importation and entry for limited use, of the quantities of birdskins allocated to each applicant. Until such time as it shall be found necessary to reduce the import quota established for pheasants, permits will authorize the entry of a stated number in the aggregate of those species of pheasant for which a quota is provided.

§ 15.26 Tenure of importation permits.

(a) Permits covering the calendar year quota allocations are issued as of January 1 and remain in effect through June 30 of the year of issue. No extension of time shall be granted on such permits and any portion of the quota allocations which become available through surrender or nonuse, in whole or in part, of a permit expiring on June 30, shall be reallocated among applicants who submit proper applications.

(b) Permits covering the reallocations made pursuant to § 15.24 shall be issued as promptly as possible after July 31 and remain in effect through December 31 of the year of issue. No extension of time shall be granted on such permits, and any portion of the quotas so reallocated which are not imported through surrender or nonuse of reallocation permits, in whole or in part, on or before December 31 of the year of issue, shall lapse and no further allocation thereof shall be made.

PART 16—INJURIOUS WILDLIFE

Subpart A—Introduction

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16.3 General restrictions.

Subpart B—Importation or Shipment of Injurious Wildlife

16.11 Importation of live wild mammals.
16.12 Importation of live wild birds or their eggs.
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Subpart C—Permits

16.22 Injurious wildlife permits.

Subpart D—Additional Exemptions

16.32 Importation by Federal agencies.
16.33 Importation of natural-history specimens.

AUTHORITY: Lacey Act, 74 Stat. 754 (18 U.S.C. 42).

SOURCE: 39 FR 1169, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 16.1 Purpose of regulations.

The regulations contained in this part implement the Lacey Act (18 U.S.C. 42).

§ 16.2 Scope of regulations.

The provisions of this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13).

§ 16.3 General restrictions.

Any importation or transportation of live wildlife or eggs thereof, or dead fish or eggs or salmonids of the fish family Salmonidae into the United States or its territories or possessions is deemed to be injurious or potentially injurious to the health and welfare of human beings, to the interest of forestry, agriculture, and horticulture, and to the welfare and survival of the wildlife or wildlife resources of the United States; and any such importation into or the transportation of live wildlife or eggs thereof between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any territory or possession of the United States by any means whatsoever, is prohibited except for certain purposes and under certain conditions as hereinafter provided in this part: *Provided*, That the provisions of this section shall not apply to psittacine birds (see also §§ 16.32 and 16.33 for other exemptions).

Subpart B—Importation or Shipment of Injurious Wildlife

§ 16.11 Importation of live wild mammals.

(a) The importation, transportation, or acquisition is prohibited of live specimens of: (1) Any species of so-called "flying fox" or fruit bat of the genus *Pteropus;* (2) any species of mongoose or meerkat of the genera *Atilax, Cynictis, Helogale, Herpestes, Ichneumia, Mungos,* and *Suricata;* (3) any species of European rabbit of the genus *Oryctolagus;* (4) any species of Indian wild dog, red dog, or dhole of the genus *Cuon;* (5) any species of multimammate rat or mouse of the genus *Mastomys;* and (6) any raccoon dog, *Nyctereutes procyonoides:* Provided, that the Director shall issue permits authorizing the importation, transportation, and possession of such mammals under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all other species of live wild mammals may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live wild mammals or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency: *Provided*, That the provisions of this paragraph shall not apply to live game mammals from Mexico, the importation of which is governed by regulations under Part 14 of this chapter.

[39 FR 1169, Jan. 4, 1974, as amended at 47 FR 56362, Dec. 16, 1982]

§ 16.12 Importation of live wild birds or their eggs.

(a) The importation, transportation, or acquisition is prohibited of any live specimen or egg of (1) the species of so-called "pink starling" or "rosy pastor" Sturnus roseus; (2) the species of dioch (including the subspecies black-fronted, red-billed, or Sudan dioch) Quelea quelea; (3) any species of Java sparrow, Padda oryzivora; (4) the species of red-whiskered bul-bul, Pycnonotus jocosus: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live birds under the terms and conditions set forth in § 16.22.

(b) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live wild game, birds may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, and the eggs of such birds may be imported, transported, and possessed, without a permit, for propagating or scientific collection purposes, but no such live wild game birds or any progeny thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

(c) Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live, wild nongame birds (other than those listed in paragraph (a) of this section) may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live, wild nongame birds or any progeny thereof may be released into the wild except by or under the direction of State wildlife conservation agencies when such agencies have received prior written permission from the Director for such release: *Provided*, That the provisions of this paragraph shall not apply to live bald and golden eagles or to live migratory birds, the importation of which is governed by regulations under Parts 22 and 21 of this chapter, respectively, or to birds of the Family *Psittacidae* (parrots, macaws, cockatoos, parakeets, lories, lovebirds, etc.), the importation and transportation of which is governed by U.S. Public Health Service regulations under 42 CFR Parts 71 and 72.

(d) The importation of the eggs of wild nongame birds is prohibited except as permitted under § 16.33.

§ 16.13 Importation of live or dead fish, mollusks, and crustaceans, or their eggs.

(a)(1) The importation, transportation, or acquisition is prohibited of any live fish or viable eggs of the family Clariidae: *Provided*, That the Director shall issue permits authorizing the importation, transportation, and possession of such live fish or viable eggs under the terms and conditions set forth in § 16.22.

(2) Except as provided in paragraph (a)(1) of this section, and except for the salmonids of the fish family Salmonidae, as provided in paragraph (b) of this section, all species of live or dead fish, mollusks, and crustaceans, or parts thereof, or their eggs, may be imported, transported, and possessed in captivity without a permit, for scientific, medical, educational, sale, exhibition, or propagational purposes upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61. No such live fish, mollusks, crustacean, or any progeny or eggs thereof, may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission from such agency.

(b)(1) Notwithstanding authority granted Federal agencies in § 16.32, all live or dead fish or eggs of salmonids of the fish family Salmonidae are prohibited entry into the United States for any purpose unless such importations are by direct shipment, accompanied by a certification that the importation is free of the protozoan Myxosoma cerebralis, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease." The certification shall be signed in the country of origin by a designated official acceptable to the Secretary of the Interior as being qualified in fish pathology, or in the United States by a qualified fish pathologist designated for this purpose by the Secretary of the Interior.

(2) The certificate required by this section shall consist of a statement in the English language, printed or typewritten, stating that this shipment of fish or eggs is free from these two diseases by the methods outlined in Fish Disease Leaflet 9, and will contain (i) the date and port of export in the country of origin and the anticipated United States date of arrival and port of entry, (ii) surface or air carrier and flight number, or vessel name or number, (iii) bill of lading number or airway bill number, and (iv) the handwritten signature, in ink, of the authorized certifying officer, and may be substantially in the following form:

I, ————————, approved by the Secretary of the U.S. Department of the Interior, on ———— (date), as a certifying official for ———— (country), as required by Title 50, CFR 13.7(b), do hereby certify, using the methodology described in Fish Disease Leaflet (FDL-9, July 1968), that this shipment of ———— (weight in pounds) of dead or live fish or fish eggs to be shipped under ———————————— (bill of lading number, or airway bill number) is free of the protozoan Myxosoma cerebralis, the causative agent of so called "whirling disease," and the virus causing viral hemorrhagic septicemia or "Egtved disease."

The shipment is scheduled to depart ———————— (city and country) on ———— (date), via ———————— (name of carrier) with anticipated arrival at the port of ———— (city), U.S.A., on ———— (date).

————————————————————

(Signature in ink of certifying officer)

(Date) ————————————

(c) Nothing in this part shall restrict the importation and transportation of the fish family Salmonidae when such fish or eggs have been processed by canning, pickling, smoking, or otherwise prepared in a manner whereby all spores of the protozoan *Myxasoma cercloralis*, the causative agent of so-called "whirling disease," and the virus causing viral hemorrhagic septicema or so-called "Egtved disease," have been killed. Salmon landed in North America and brought into the United States for processing or sale, or any salmonid caught in the wild in North America under a sport or a commercial fishing license shall be exempt from the requirements for certification and from the filing of the Declaration for Importation of Wildlife.

§ 16.14 Importation of live amphibians or their eggs.

Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live amphibians or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, education, exhibition, or propagating purposes, but no such live amphibians or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

§ 16.15 Importation of live reptiles or their eggs.

Upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61, all species of live reptiles or their eggs may be imported, transported, and possessed in captivity, without a permit, for scientific, medical, educational, exhibition, or propagating purposes, but no such live reptiles or any progeny or eggs thereof may be released into the wild except by the State wildlife conservation agency having jurisdiction over the area of release or by persons having prior written permission for release from such agency.

Subpart C—Permits

§ 16.22 Injurious wildlife permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the importation into or shipment between the continental United States, the District of Columbia, Hawaii, the Commonwealth of Puerto Rico, or any possession of the United States of injurious wildlife (See Subpart B of this part) for zoological, educational, medical, or scientific purposes.

(a) *Application requirements.* Applications for permits to import or ship injurious wildlife for such purposes shall be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, VA 22203. Each application must be submitted in writing on a Federal Fish and Wildlife License/Permit application (Form 3-200) provided by the Service and must include as an attachment all of the following information:

(1) The number of specimens and the common and scientific names (genus and species) of each species of live wildlife proposed to be imported or otherwise acquired, transported and possessed;

(2) The purpose of such importation or other acquisition, transportation and possession;

(3) The address of the premises where such live wildlife will be kept in captivity;

(4) A statement of the applicant's qualifications and previous experience in caring for and handling captive wildlife.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes shall be subject to the following conditions:

(1) All live wildlife acquired under permit and all progeny thereof, must be confined in the approved facilities on the premises authorized in the permit.

(2) No live wildlife, acquired under permit, or any eggs or progeny thereof, may be sold, donated, traded,

loaned, or transferred to any other person unless such person has a permit issued by the Director under § 16.22 authorizing him to acquire and possess such wildlife or the eggs or progeny thereof.

(3) Permittees shall notify the nearest Special Agent-in-Charge (see § 10.22 of this chapter) by telephone or other expedient means within 24 hours following the escape of any wildlife imported or transported under authority of a permit issued under this section, or the escape of any progeny of such wildlife, unless otherwise specifically exempted by terms of the permit.

(c) *Issuance criteria.* The Director shall consider the following in determining whether to issue a permit to import or ship injurious wildlife for zoological, educational, medical, or scientific purposes:

(1) Whether the wildlife is being imported or otherwise acquired for a bona fide scientific, medical, educational, or zoological exhibition purpose;

(2) Whether the facilities for holding the wildlife in captivity have been inspected and approved, and consist of a basic cage or structure of a design and material adequate to prevent escape which is maintained inside a building or other facility of such structure that the wildlife could not escape from the building or other facility after escaping from the cage or structure maintained therein;

(3) Whether the applicant is a responsible person who is aware of the potential dangers to public interests posed by such wildlife, and who by reason of his knowledge, experience, and facilities reasonably can be expected to provide adequate protection for such public interests; and

(4) If such wildlife is to be imported or otherwise acquired for zoological or aquarium exhibition purposes, whether such exhibition or display will be open to the public during regular appropriate hours.

(d) The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

[39 FR 1169, Jan. 4, 1974, as amended at 47 FR 30786, July 15, 1982]

Subpart D—Additional Exemptions

§ 16.32 Importation by Federal agencies.

Nothing in this part shall restrict the importation and transportation, without a permit, of any live wildlife by Federal agencies solely for their own use, upon the filing of a written declaration with the District Director of Customs at the port of entry as required under § 14.61: *Provided,* That the provisions of this section shall not apply to bald and golden eagles or their eggs, or to migratory birds or their eggs, the importations of which are governed by regulations under Parts 22 and 21 of this chapter, respectively.

§ 16.33 Importation of natural-history specimens.

Nothing in this part shall restrict the importation and transportation, without a permit, of dead natural-history specimens of wildlife or their eggs for museum or scientific collection purposes: *Provided,* That the provisions of this section shall not apply to dead migratory birds, the importation of which is governed by regulations under Parts 20 and 21 of this chapter; to dead game mammals from Mexico, the importation of which is governed by regulations under Part 14 of this chapter; or to dead bald and golden eagles or their eggs, the importation of which is governed by regulations under Part 22 of this chapter.

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

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AUTHORITY: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359; 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531, *et seq.*), unless otherwise noted.

SOURCE: 40 FR 44415, Sept. 26, 1975, unless otherwise noted.

Subpart A—Introduction and General Provisions

§ 17.1 Purpose of regulations.

(a) The regulations in this part implement the Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531-1543, except for those provisions in the Act concerning the Convention on International Trade in Endangered Species of Wild Fauna and Flora, for which regulations are provided in Part 23 of this subchapter.

(b) The regulations identify those species of wildlife and plants determined by the Director to be endangered or threatened with extinction under section 4(a) of the Act and also carry over the species and subspecies of wildlife designated as endangered under the Endangered Species Conservation Act of 1969 (83 Stat. 275, 16 U.S.C. 668cc-1 to 6) which are deemed endangered species under section 4(c)(3) of the Act.

[40 FR 44415, Sept. 26, 1975, as amended at 42 FR 10465, Feb. 22, 1977]

§ 17.2 Scope of regulations.

(a) The regulations of this part apply only to endangered and threatened wildlife and plants.

(b) By agreement between the Service and the National Marine Fisheries Service, the jurisdiction of the Department of Commerce has been specifically defined to include certain species, while jurisdiction is shared in regard to certain other species. Such species are footnoted in Subpart B of this part, and reference is given to special rules of the National Marine Fisheries Service for those species.

(c) The provisions in this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife.

(d) The examples used in this part are provided solely for the convenience of the public, and to explain the intent and meaning of the regulation to which they refer. They have no legal significance.

(e) Certain of the wildlife and plants listed in §§ 17.11 and 17.12 as endangered or threatened are included in Appendix I, II or III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The importation, exportation and reexportation of such species are subject to additional regulations provided in Part 23 of this subchapter.

[40 FR 44415, Sept. 26, 1975, as amended at 42 FR 10465, Feb. 22, 1977]

§ 17.3 Definitions.

In addition to the definitions contained in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 17:

"Act" means the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884);

"Alaskan Native" means a person defined in the Alaska Native Claims Settlement Act (43 U.S.C. 1603(b) (85 Stat. 588)) as a citizen of the United States who is of one-fourth degree or more Alaska Indian (including Tsimshian Indians enrolled or not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native, as so defined, either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or town of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any Native village or Native town. Any citizen enrolled by the Secretary pursuant to section 5 of the Alaska Native Claims Settlement Act shall be conclusively presumed to be an Alaskan Native for purposes of this part;

"Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut, or Eskimo which (a) were commonly produced on or before December 28, 1973, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to § 18.23(c) of this subchapter (in the case of marine mammals) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups such as cooperatives, is permitted so long as no large scale mass production results;

"Bred in captivity" or "captive-bred" refers to wildlife, including eggs, born or otherwise produced in captivity from parents that mated or otherwise transferred gametes in captivity, if reproduction is sexual, or from parents that were in captivity when development of the progeny began, if development is asexual.

"Captivity" means that living wildlife is held in a controlled environment that is intensively manipulated by man for the purpose of producing wildlife of the selected species, and that has boundaries designed to prevent animal, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include but are not limited to artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

"Enhance the propagation or survival," when used in reference to wildlife in captivity, includes but is not limited to the following activities when it can be shown that such activities would not be detrimental to the survival of wild or captive populations of the affected species:

(a) Provision of health care, management of populations by culling, contraception, euthanasia, grouping or handling of wildlife to control survivorship and reproduction, and similar normal practices of animal husbandry needed to maintain captive populations that are self-sustaining and that possess as much genetic vitality as possible;

(b) Accumulation and holding of living wildlife that is not immediately needed or suitable for propagative or scientific purposes, and the transfer of such wildlife between persons in order to relieve crowding or other problems hindering the propagation or survival of the captive population at the location from which the wildlife would be removed; and

(c) Exhibition of living wildlife in a manner designed to educate the public about the ecological role and conservation needs of the affected species.

"Endangered" means a species of wildlife listed in § 17.11 or a species of plant listed in § 17.12 and designated as endangered.

"Harass" in the definition of "take" in the Act means an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.

"Harm" in the definition of "take" in the Act means an act which actually kills or injures wildlife. Such act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

"Incidental taking" means any taking otherwise prohibited, if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

"Industry or trade" in the definition of "commercial activity" in the Act means the actual or intended transfer of wildlife or plants from one person to another person in the pursuit of gain or profit;

"Native village or town" means any community, association, tribe, clan or group;

"Population" means a group of fish or wildlife in the same taxon below the subspecific level, in common spatial arrangement that interbreed when mature;

"Specimen" means any animal or plant, or any part, product, egg, seed or root of any animal or plant;

"Subsistence" means the use of endangered or threatened wildlife for food, clothing, shelter, heating, transportation and other uses necessary to maintain the life of the taker of the wildlife, or those who depend upon the taker to provide them with such subsistence, and includes selling any edible portions of such wildlife in native villages and towns in Alaska for native consumption within native villages and towns;

"Threatened" means a species of wildlife listed in § 17.11 or plant listed in § 17.12 and designated as threatened.

"Wasteful manner" means any taking or method of taking which is likely to result in the killing or injury of endangered or threatened wildlife beyond those needed for subsistence purposes, or which results in the waste of a substantial portion of the wildlife, and includes without limitation the employment of a method of taking which is not likely to assure the capture or killing of the wildlife, or which is not immediately followed by a reasonable effort to retrieve the wildlife.

[40 FR 44415, Sept. 26, 1975, as amended at 42 FR 28056, June 1, 1977; 44 FR 54006, Sept. 17, 1979; 46 FR 54750, Nov. 4, 1981; 47 FR 31387, July 20, 1982; 50 FR 39687, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39687, Sept. 30, 1985, the definition "incidental taking" was added to § 17.3, effective October 30, 1985.

§ 17.4 Pre-Act wildlife.

(a) The prohibitions defined in Subparts C and D of this Part 17 shall not apply to any activity involving endangered or threatened wildlife which was held in captivity or in a controlled environment on December 28, 1973: *Provided,*

(1) That the purposes of such holding were not contrary to the purposes of the Act; and

(2) That the wildlife was not held in the course of a commercial activity.

Example 1. On January 25, 1974, a tourist buys a stuffed hawksbill turtle (an endangered species listed since June, 1970), in a foreign country. On December 28, 1973, the stuffed turtle had been on display for sale. The tourist imports the stuffed turtle into the United States on January 26, 1974. This is a violation of the Act since the stuffed turtle was held for commercial purposes on December 28, 1973.

Example 2. On December 27, 1973 (or earlier), a tourist buys a leopard skin coat (the leopard has been listed as endangered since March 1972) for his wife in a foreign country. On January 5, he imports it into the United States. He has not committed a violation since on December 28, 1973, he was the owner of the coat, for personal purposes, and the chain of commerce had ended with the sale on the 27th. Even if he did not finish paying for the coat for another year, as long as he had possession of it, and he was not going to resell it, but was using it for personal purposes, the Act does not apply to that coat.

Example 3. On or before December 28, 1973, a hunter kills a leopard legally in Africa. He has the leopard mounted and imports it into the United States in March 1974. The importation is not subject to the Act. The hunter has not engaged in a commercial activity, even though he bought the services of a guide, outfitters, and a taxidermist to help him take, preserve, and import the leopard. This applies even if the trophy was in the possession of the taxidermist on December 28, 1973.

Example 4. On January 15, 1974, a hunter kills a leopard legally in Africa. He has the leopard mounted and imports it into the United States in June 1974. This importation is a violation of the Act since the leopard was not in captivity or a controlled environment on December 28, 1973.

(b) Service officers or Customs officers may refuse to clear endangered or threatened wildlife for importation into or exportation from the United States, pursuant to § 14.53 of this subchapter, until the importer or exporter can demonstrate that the exemption referred to in this section applies. Exempt status may be established by any sufficient evidence, including an affidavit containing the following:

(1) The affiant's name and address;

(2) Identification of the affiant;

(3) Identification of the endangered or threatened wildlife which is the subject of the affidavit;

(4) A statement by the affiant that to the best of his knowledge and belief, the endangered or threatened wildlife which is the subject of the affidavit was in captivity or in a controlled environment on December 28, 1973, and was not being held for purposes contrary to the Act or in the course of a commercial activity;

(5) A statement by the affiant in the following language:

> The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to recognize an exempt status regarding (*insert description of wildlife*), under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 18 U.S.C. 1001.

(6) As an attachment, records or other available evidence to show:

(i) That the wildlife in question was being held in captivity or in a controlled environment on December 28, 1973;

(ii) The purpose for which the wildlife was being held; and

(iii) The nature of such holding (to establish that no commercial activity was involved).

(c) This section applies only to wildlife born on or prior to December 28, 1973. It does not apply to the progeny of any such wildlife born after December 28, 1973.

§ 17.5 Alaska natives.

(a) The provisions of Subpart C of this part relating to the importation or the taking of endangered wildlife, and any provision of Subpart D of this part relating to the importation or the taking of threatened wildlife, shall not apply to:

(1) Any Indian, Aleut, or Eskimo who is an Alaskan native and who resides in Alaska; or

(2) Any non-native permanent resident of an Alaskan native village who is primarily dependent upon the taking of wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing:

If the taking is primarily for subsistence purposes, and is not accomplished in a wasteful manner.

(b) Edible portions of endangered or threatened wildlife taken or imported pursuant to paragraph (a) of this section may be sold in native villages or towns in Alaska for native consumption within native villages and towns in Alaska.

(c) Non-edible by-products of endangered or threatened wildlife taken or imported pursuant to paragraph (a) of this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing.

§ 17.6 State cooperative agreements. [Reserved]

§ 17.7 Raptor exemption.

(a) The prohibitions found in §§ 17.21 and 17.31 do not apply to any raptor [a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*)] legally held in captivity or in a controlled environment on November 10, 1978, or to any of its progeny, which is:

(1) Possessed and banded in compliance with the terms of a valid permit issued under Part 21 of this chapter; and

(2) Identified in the earliest applicable annual report required to be filed by a permittee under Part 21 of this chapter as in a permittee's possession on November 10, 1978, or as the progeny of such a raptor.

(b) This section does not apply to any raptor intentionally returned to the wild.

[48 FR 31607, July 8, 1983]

Subpart B—Lists

SOURCE: 48 FR 34182, July 27, 1983, unless otherwise noted.

§ 17.11 Endangered and threatened wildlife.

(a) The list in this section contains the names of all species of wildlife which have been determined by the Services to be Endangered or Threatened. It also contains the names of species of wildlife treated as Endangered or Threatened because they are sufficiently similar in appearance to Endangered or Threatened species (see § 17.50 *et seq.*).

(b) The columns entitled "Common Name," "Scientific Name," and "Vertebrate Population Where Endangered or Threatened" define the species of wildlife within the meaning of the Act. Thus, differently classified geographic populations of the same vertebrate subspecies or species shall be identified by their differing geographic boundaries, even though the other two columns are identical. The term "Entire" means that all populations throughout the present range of a vertebrate species are listed. Although common names are included, they cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The Services shall use the most recently accepted scientific name. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The Services shall rely to the extent practicable on the *International Code of Zoological Nomenclature.*

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E [or T] (S/A)" for similarity of appearance species.

(d) The other data in the list are nonregulatory in nature and are provided for the information of the reader. In the annual revision and compilation of this title, the following information may be amended without public notice: the spelling of species' names, historical range, footnotes, references to certain other applicable portions of this title, synonyms, and more current names. In any of these revised entries, neither the species, as defined in paragraph (b) of this section, nor its status may be changed without following the procedures of Part 424 of this title.

(e) The "historic range" indicates the known general distribution of the species or subspecies as reported in the current scientific literature. The present distribution may be greatly reduced from this historic range. This column does not imply any limitation on the application of the prohibitions in the Act or implementing rules. Such prohibitions apply to all individuals of the species, wherever found.

(f)(1) A footnote to the FEDERAL REGISTER publication(s) listing or reclassifying a species is indicated under the column "When listed." Footnote numbers to §§ 17.11 and 17.12 are in the same numerical sequence, since plants and animals may be listed in the same FEDERAL REGISTER document. That document, at least since 1973, includes a statement indicating the basis for the listing, as well as the effective date(s) of said listing.

(2) The "Special rules" and "Critical habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special rules" column will also be used to cite the special rules that describe experimental populations and determine if they are essential or nonessential. Separate listing will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a nonessential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or critical habitat for that particular species. However, all other appropriate rules in Parts 17, 217 through 227, and 402 still apply to that species. In addition, there may be other rules in this title that relate to such wildlife, e.g., port-of-entry requirements. It is not intended that the references in the "Special rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxon includes all lower taxonomic units. For example, the genus *Hylobates* (gibbons) is listed as Endangered throughout its entire range (China, India, and SE Asia); consequently, all species, subspecies, and populations of that genus are considered listed as Endangered for the purposes of the Act. In 1978 (43 FR 6230-6233) the species *Haliaeetus leucocephalus* (bald eagle) was listed as Threatened in "USA (WA, OR, MN, WI, MI)" rather than its entire population; thus, all individuals of the bald eagle found in those five States are considered listed as Threatened for the purposes of the Act.

(h) The "List of Endangered and Threatened Wildlife" is provided below:

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Anoa, lowland	*Bubalus depressicornis* (=*B. anoa depressicornis*)	Indonesia	Entire	E	3	NA	NA
Anoa, mountain	*Bubalus quarlesi* (=*B. anoa quarlesi*)	do	do	E	15	NA	NA
Antelope, giant sable	*Hippotragus niger variani*	Angola	do	E	15	NA	NA
Argali	*Ovis ammon hodgsoni*	China (Tibet, Himalayas)	do	E	15	NA	NA
Armadillo, giant	*Priodontes maximus* (=*giganteus*)	Venezuela and Guyana to Argentina	do	E	15	NA	NA
Armadillo, pink fairy	*Chlamyphorus truncatus*	Argentina	do	E	3	NA	NA
Ass, African wild	*Equus asinus* (=*africanus*)	Somalia, Sudan, Ethiopia	do	E	3	NA	NA
Ass, Asian wild (=kulan, onager)	*Equus hemionus*	Southwestern and Central Asia	do	E	3	NA	NA
Avahi	*Avahi* (=*Lichanotus*) *laniger* (=entire genus)	Malagasy Republic (=Madagascar)	do	E	3	NA	NA
Aye-Aye	*Daubentonia madagascariensis*	Malagasy Republic (=Madagascar)	do	E	3	NA	NA
Babirusa	*Babyrousa babyrussa*	Indonesia	do	E	15	NA	NA
Baboon, gelada	*Theropithecus gelada*	Ethiopia	do	T	16	NA	17.40(c)
Bandicoot, barred	*Perameles bougainville*	Australia	do	E	4	NA	NA
Bandicoot, desert	*Perameles eremiana*	do	do	E	6	NA	NA
Bandicoot, lesser rabbit	*Macrotis leucura*	do	do	E	4	NA	NA
Bandicoot, pig-footed	*Chaeropus ecaudatus*	do	do	E	4	NA	NA
Bandicoot, rabbit	*Macrotis lagotis*	do	do	E	4	NA	NA
Banteng	*Bos javanicus* (=*banteng*)	Southeast Asia	do	E	3	NA	NA
Bat, Bulmer's fruit (flying fox)	*Aproteles bulmerae*	Papua New Guinea	do	E	139	NA	NA
Bat, bumblebee	*Craseonycteris thonglongyai*	Thailand	do	E	139	NA	NA
Bat, gray	*Myotis grisescens*	Central and Southeastern U.S.A.	do	E	13	NA	NA
Bat, Hawaiian hoary	*Lasiurus cinereus semotus*	U.S.A. (HI)	do	E	2	NA	NA
Bat, Indiana	*Myotis sodalis*	Eastern and Midwestern U.S.A.	do	E	1	17.95(a)	NA
Bat, little Mariana fruit	*Pteropus tokudae*	Western Pacific Ocean: U.S.A. (Guam)	do	E	156	NA	NA
Bat, Mariana fruit	*Pteropus mariannus mariannus*	Western Pacific Ocean: U.S.A. (Guam, Rota, Tinian, Saipan, Agiguan).	Guam	E	156	NA	NA
Bat, Ozark big-eared	*Plecotus townsendii ingens*	U.S.A. (MO, OK, AR)	do	E	85	NA	NA
Bat, Rodrigues fruit (flying fox)	*Pteropus rodricensis*	Indian Ocean: Rodrigues Island	do	E	139	NA	NA
Bat, Singapore roundleaf horseshoe	*Hipposideros ridleyi*	Malaysia	do	E	139	NA	NA
Bat, Virginia big-eared	*Plecotus townsendii virginianus*	U.S.A. (KY, WV, VA)	do	E	85	17.95(a)	NA
Bear, brown	*Ursus arctos pruinosus*	China (Tibet)	do	E	15	NA	NA
Bear, brown	*Ursus arctos arctos*	Palearctic	Italy	E	15	NA	NA
Bear, brown or grizzly	*Ursus arctos* (=*U.a. horribilis*)	Holarctic	U.S.A.—48 conterminous States.	T	1, 2, 9	NA	17.40(b)
Bear, brown or grizzly	*Ursus arctos* (=*U.a. nelsoni*)	Holarctic	Mexico	E	3	NA	NA
Beaver	*Castor fiber birulai*	Mongolia	Entire	E	15	NA	NA
Bison, wood	*Bison bison athabascae*	Canada, Northwestern U.S.A.	Canada	E	3	NA	NA
Bobcat	*Felis rufus escuinapae*	Central Mexico	Entire	E	15	NA	NA
Bontebok (antelope)	*Damaliscus dorcas dorcas*	South Africa	do	E	15	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Camel, Bactrian	*Camelus bactrianus* (=*ferus*)	Mongolia, China	do	E	15	NA	NA
Caribou, woodland	*Rangifer tarandus caribou*	Canada, U.S.A. (AK, ID, ME, MI, MN, MT, NH, VT, WA, WI).	Canada (that part of S.E. Brit. Col. bounded by the Can.-USA border, Columbia R., Kootenay R., Kootenay L., and Kootenai R.), U.S.A. (ID, WA)	E	128E, 136E, 143	NA	NA
Cat, Andean	*Felis jacobita*	Chile, Peru, Bolivia, Argentina	Entire	E	15	NA	NA
Cat, black-footed	*Felis nigripes*	Southern Africa	do	E	15	NA	NA
Cat, flat-headed	*Felis planiceps*	Malaysia, Indonesia	do	E	15	NA	NA
Cat, Iriomote	*Felis (Mayailurus) iriomotensis*	Japan (Iriomote Island, Ryukyu Islands)	do	E	50	NA	NA
Cat, leopard	*Felis bengalensis bengalensis*	India, Southeast Asia	do	E	15	NA	NA
Cat, marbled	*Felis marmorata*	Nepal, Southeast Asia, Indonesia	do	E	15	NA	NA
Cat, Pakistan sand	*Felis margarita scheffeli*	Pakistan	do	E	139	NA	NA
Cat, Temminck's (=golden cat)	*Felis temmincki*	Nepal, China, Southeast Asia, Indonesia (Sumatra)	do	E	15	NA	NA
Cat, tiger	*Felis tigrinus*	Costa Rica to northern Argentina	do	E	5	NA	NA
Chamois, Apennine	*Rupicapra rupicapra ornata*	Italy	do	E	15	NA	NA
Cheetah	*Acinonyx jubatus*	Africa to India	do	E	3, 5	NA	NA
Chimpanzee	*Pan troglodytes*	West and Central Africa	do	T	16	NA	17.40(c)
Chimpanzee, pygmy	*Pan paniscus*	Zaire	do	T	16	NA	17.40(c)
Chinchilla	*Chinchilla brevicaudata boliviana*	Bolivia	do	E	15	NA	NA
Civet, Malabar large-spotted	*Viverra megaspila civettina*	India	do	E	50	NA	NA
Cochito (=Gulf of California harbor porpoise)	*Phocoena sinus*	Mexico (Gulf of California)	do	E	169	NA	NA
Colobus, Preuss's red	*Colobus badius preussi*	Cameroon	do	E	139	NA	NA
Cougar, eastern	*Felis concolor couguar*	Eastern North America	do	E	6	NA	NA
Deer, Bactrian	*Cervus elaphus bactrianus*	U.S.S.R., Afghanistan	do	E	50	NA	NA
Deer, Bawean	*Axis (=Cervus) porcinus kuhli*	Indonesia	do	E	3	NA	NA
Deer, Barbary	*Cervus elaphus barbarus*	Morocco, Tunisia, Algeria	do	E	50	NA	NA
Deer, Cedros Island mule	*Odocoileus hemionus cedrosensis*	Mexico (Cedros Island)	do	E	10	NA	NA
Deer, Columbian white-tailed	*Odocoileus virginianus leucurus*	U.S.A. (WA, OR)	do	E	1	NA	NA
Deer, Corsican red	*Cervus elaphus corsicanus*	Corsica, Sardinia	do	E	50	NA	NA
Deer, Eld's brow-antlered	*Cervus eldi*	India to Southeast Asia	do	E	3	NA	NA
Deer, Formosan sika	*Cervus nippon taiouanus*	Taiwan	do	E	50	NA	NA
Deer, hog	*Axis (=Cervus) porcinus annamiticus*	Thailand, Indochina	do	E	15	NA	NA
Deer, key	*Odocoileus virginianus clavium*	U.S.A. (FL)	do	E	1	NA	NA
Deer, marsh	*Blastocerus dichotomus*	Argentina, Uruguay, Paraguay, Bolivia, Brazil.	do	E	3	NA	NA
Dear, McNeill's	*Cervus elaphus macneilli*	China (Sinkiang, Tibet)	do	E	3	NA	NA

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Deer, musk	*Moschus* spp (all species)	Central and East Asia	Afghanistan, Bhutan, Burma, China (Tibet Yunnan), India Nepal, Pakistan, Sikkim.	E	15	NA	NA
Deer, North China sika	*Cervus nippon mandarinus*	China (Shantung and Chihli Provinces)	Entire	E	50	NA	NA
Deer, pampas	*Ozotoceros bezoarticus*	Brazil, Argentina, Uruguay, Bolivia, Paraguay.	...do	E	15	NA	NA
Deer, Persian fallow	*Dama dama mesopotamica*	Iraq, Iran	...do	E	3	NA	NA
Deer, Philippine	*Axis* (= *Cervus*) *porcinus calamianensis*	Philippines (Calamian Islands)	...do	E	15	NA	NA
Deer, Ryukyu sika	*Cervus nippon keramae*	Japan (Ryukyu Islands)	...do	E	50	NA	NA
Deer, Shansi sika	*Cervus nippon grassianus*	China (Shansi Province)	...do	E	50	NA	NA
Deer, South China sika	*Cervus nippon kopschi*	Southern China	...do	E	50	NA	NA
Deer swamp (= barasingha)	*Cervus duvauceli*	India, Nepal	...do	E	3	NA	NA
Deer, Yarkand	*Cervus elaphus yarkandensis*	China (Sinkiang)	...do	E	50	NA	NA
Dhole (= Asiatic wild dog)	*Cuon alpinus*	U.S.S.R., Korea, China, India, Southeast Asia	...do	E	3	NA	NA
Dibbler	*Antechinus apicalis*	Australia	...do	E	4	NA	NA
Dog, African wild	*Lycaon pictus*	Sub-Saharan Africa	...do	E	139	NA	NA
Drill	*Papio leucophaeus*	Equatorial West Africa	...do	E	16	NA	NA
Dugong	*Dugong dugon*	East Africa to southern Japan, including U.S.A. (Trust Territories).	...do	E	4	NA	NA
Duiker, Jentink's	*Cephalophus jentinki*	Sierra Leone, Liberia, Ivory Coast	...do	E	50	NA	NA
Eland, Western giant	*Taurotragus derbianus derbianus*	Senegal to Ivory Coast	...do	E	50	NA	NA
Elephant, African	*Loxodonta africana*	Africa	...do	T	40	NA	17.40(e)
Elephant, Asian	*Elephas maximus*	South-central and Southeast Asia	...do	E	15	NA	NA
Ferret, black-footed	*Mustela nigripes*	Western U.S.A. Western Canada	...do	E	1, 3	NA	NA
Fox, Northern swift	*Vulpes velox hebes*	U.S.A. (northern plains), Canada	Canada	E	3	NA	NA
Fox, San Joaquin kit	*Vulpes macrotis mutica*	U.S.A. (CA)	Entire	E	1	NA	NA
Fox Simien	*Canis* (*Simenia*) *simensis*	Ethiopia	...do	E	50	NA	NA
Gazelle, Clark's (= Dibatag)	*Ammodorcas clarkei*	Somalia, Ethiopia	...do	E	3	NA	NA
Gazelle, Cuvier's	*Gazella cuvieri*	Morocco, Algeria, Tunisia	...do	E	3	NA	NA
Gazelle, Mhorr	*Gazella dama mhorr*	Morocco	...do	E	3	NA	NA
Gazelle, Moroccan (= Dorcas)	*Gazella dorcas massaesyla*	Morocco, Algeria, Tunisia	...do	E	3	NA	NA
Gazelle, Rio de Oro Dama	*Gazella dama lozanoi*	Western Sahara	...do	E	3	NA	NA
Gazelle, Arabian	*Gazella gazella*	Arabian Peninsula, Palestine, Sinai	...do	E	50	NA	NA
Gazelle, sand	*Gazella subgutturosa marica*	Jordan, Arabian Peninsula	...do	E	50	NA	NA
Gazelle, Saudi Arabian	*Gazella dorcas saudiya*	Israel, Iraq, Jordan, Syria, Arabian Peninsula.	...do	E	50	NA	NA
Gazelle, Pelzeln's	*Gazella dorcas pelzelni*	Somalia	...do	E	50	NA	NA
Gazelle, slender-horned (= Rhim)	*Gazella leptoceros*	Sudan, Egypt, Algeria, Libya	...do	E	3	NA	NA
Gibbons	*Hylobates* spp. (including *Nomascus*)	China, India, Southeast Asia	...do	E	3, 15	NA	NA
Goat, wild (= Chiltan markhor)	*Capra aegagrus* (= *falconeri chiltenensis*)	Southwestern Asia	Chiltan Range of west-central Pakistan.	E	15	NA	NA
Goral	*Nemorhaedus goral*	East Asia	Entire	E	15	NA	NA
Gorilla	*Gorilla gorilla*	Central and Western Africa	...do	E	3	NA	NA

Species		Historic range	Vertebrate population where andangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Hare, hispid	*Caprolagus hispidus*	India, Nepal, Bhutan	do	E	15	NA	NA
Hartebeest, Swayne's	*Alcelaphus buselaphus swaynei*	Ethiopia, Somalia	do	E	3, 50	NA	NA
Hartebeest, Tora	*Alcelaphus buselaphus tora*	Ethiopia, Sudan, Egypt	do	E	50	NA	NA
Hog, pygmy	*Sus salvanius*	India, Nepal, Bhutan, Sikkim	do	E	3	NA	NA
Horse, Przewalski's	*Equus przewalskii*	Mongolia, China	do	E	15	NA	NA
Huemul, North Andean	*Hippocamelus antisensis*	Ecuador, Peru Chile, Bolivia, Argentina	do	E	15	NA	NA
Huemul, South Andean	*Hippocamelus bisulcus*	Chile, Argentina	do	E	15	NA	NA
Hyena, Barbary	*Hyaena hyaena barbara*	Morocco, Algeria, Tunisia	do	E	3	NA	NA
Hyena, brown	*Hyaena brunnea*	Southern Africa	do	E	3	NA	NA
Ibex, Pyrenean	*Capra pyrenaica pyrenaica*	Spain	do	E	3	NA	NA
Ibex, Walia	*Capra walie*	Ethiopia	do	E	3	NA	NA
Impala, black-faced	*Aepyceros melampus petersi*	Namibia, Angola	do	E	3	NA	NA
Indri	*Indri indri* (=entire genus)	Malagasy Republic (=Madagascar)	do	E	3	NA	NA
Jaguar	*Panthera onca*	U.S.A. (TX, NM, AZ), C. and S. America	Mexico southward	E	5	NA	NA
Jaguarundi	*Felis yagouaroundi cacomitli*	U.S.A. (TX), Mexico	Entire	E	15	NA	NA
Jaguarundi	*Felis yagouaroundi fossata*	Mexico, Nicaragua	do	E	15	NA	NA
Jaguarundi	*Felis yagouaroundi panamensis*	Nicaragua, Costa Rica, Panama	do	E	15	NA	NA
Jaguarundi	*Felis yagouaroundi tolteca*	U.S.A. (AZ), Mexico	do	E	15	NA	NA
Kangaroo, eastern gray	*Macropus giganteus* (all subspecies except *tasmaniensis*).	Australia	do	T	7	NA	17.40(a)
Kangaroo, red	*Macropus (Megaleia) rufus*	do	do	T	7	NA	17.40(a)
Kangaroo, Tasmanian forester	*Macropus giganteus tasmaniensis*	Australia (Tasmania)	do	E	6	NA	NA
Kangaroo, western gray	*Macropus fuliginosus*	Australia	do	T	7	NA	17.40(a)
Kouprey	*Bos sauveli*	Vietnam, Laos, Cambodia, Thailand	do	E	3	NA	NA
Langur, capped	*Presbytis pileata*	India, Burma, Bangladesh	do	E	15	NA	NA
Langur, entellus	*Presbytis entellus*	China (Tibet), India, Pakistan, Kashmir, Sri Lanka, Sikkim, Bangladesh.	do	E	15	NA	NA
Langur, Douc	*Pygathrix nemaeus*	Cambodia, Laos, Vietnam	do	E	3	NA	NA
Langur, Francois'	*Presbytis francoisi*	China (Kwangsi), Indochina	do	E	16	NA	NA
Langur, golden	*Presbytis geei*	India (Assam), Bhutan	do	E	15	NA	NA
Langur, long-tailed	*Presbytis potenziani*	Indonesia	do	T	16	NA	17.40(c)
Langur, Pagi Island	*Nasalis (Simias) concolor*	do	do	E	3	NA	NA
Langur, purple-faced	*Presbytis senex*	Sri Lanka (=Ceylon)	do	T	16	NA	17.40(c)
Langur, Tonkin snub-nosed	*Pygathrix (Rhinopithecus) avunculus*	Vietnam	do	T	16	NA	17.40(c)
Lechwe, red	*Kobus leche*	Southern Africa	do	T	3, 15, 106	NA	NA
Lemurs	Lemuridae (incl. Cheirogaleidae, Lepilemuridae); all members of genera *Lemur, Phaner, Hapalemur, Lepilemur, Microcebus, Allocebus, Cheirogaleus, Varecia.*	Malagasy Republic (=Madagascar)	do	E	3, 15	NA	NA

Leopard	*Panthera pardus*	Africa, Asia	Wherever found, except where it is listed as Threatened as set forth below	E	3, 5, 114	NA	NA
Leopard	*Panthera pardus*	Africa, Asia	in Africa, in the wild, south of, and including, the following countries: Gabon, Congo, Zaire, Uganda, Kenya.	T	3, 5, 114	NA	17.40(f)
Leopard, clouded	*Neofelis nebulosa*	Southeast and south-central Asia, Taiwan	Entire	E	3, 15	NA	NA
Leopard, snow	*Panthera uncia*	Central Asia	do	E	5	NA	NA
Linsang, spotted	*Prionodon pardicolor*	Nepal, Assam, Vietnam, Cambodia, Laos, Burma	do	E	15	NA	NA
Lion, Asiatic	*Panthera leo persica*	Turkey to India	do	E	3	NA	NA
Loris, lesser slow	*Nycticebus pygmaeus*	Indochina	do	T	16	NA	17.40(c)
Lynx, Spanish	*Felis (=Lynx) pardina*	Spain, Portugal	do	E	3	NA	NA
Macaque, Formosan rock	*Macaca cyclopis*	Taiwan	do	T	16	NA	17.40(c)
Macaque, Japanese	*Macaca fuscata*	Japan (Shikoku, Kyushu and Honshu Islands)	do	T	16	NA	17.40(c)
Macaque, lion-tailed	*Macaca silenus*	India	do	E	3	NA	NA
Macaque, stump-tailed	*Macaca arctoides*	India (Assam) to southern China	do	T	16	NA	17.40(c)
Macaque, Toque	*Macaca sinica*	Sri Lanka (=Ceylon)	do	T	16	NA	17.40(c)
Manatee, Amazonian	*Trichechus inunguis*	South America (Amazon River Basin)	do	E	3	NA	NA
Manatee, West African	*Trichechus senegalensis*	West Coast of Africa from Senegal River to Cuanza River	do	T	52	NA	NA
Manatee, West Indian (Florida)	*Trichechus manatus*	U.S.A. (southeastern), Caribbean Sea, South America.	do	E	1, 3	17.95(a)	NA
Mandrill	*Papio sphinx*	Equatorial West Africa	do	E	16	NA	NA
Mangabey, Tana River	*Cercocebus galeritus*	Kenya	do	E	3	NA	NA
Mangabey, white-collared	*Cercocebus torquatus*	Senegal to Ghana; Nigeria to Gabon	do	E	16	NA	NA
Margay	*Felis wiedii*	U.S.A. (TX), C. and S. America	Mexico southward	E	5	NA	NA
Markhor, Kabal	*Capra falconeri megaceros*	Afghanistan, Pakistan	Entire	E	15	NA	NA
Markhor, straight-horned	*Capra falconeri jerdoni*	do	do	E	15	NA	NA
Marmoset, buff-headed	*Callithrix flaviceps*	Brazil	do	E	139	NA	NA
Marmoset, cotton-top	*Saguinus oedipus*	Costa Rica to Colombia	do	E	16	NA	NA
Marmoset, Goeldi's	*Callimico goeldii*	Brazil, Colombia, Ecuador, Peru, Bolivia	do	E	3	NA	NA
Marmot, Vancouver Island	*Marmota vancouverensis*	Canada (Vancouver Island)	do	E	139	NA	NA
Marsupial, eastern jerboa	*Antechinomys laniger*	Australia	do	E	4	NA	NA
Marsupial-mouse, large desert	*Sminthopsis psammophila*	do	do	E	4	NA	NA
Marsupial-mouse, long-tailed	*Sminthopsis longicaudata*	do	do	E	4	NA	NA
Marten, Formosan yellow-throated	*Martes flavigula chrysospila*	Taiwan	do	E	3	NA	NA
Monkey, black colobus	*Colobus satanas*	Equatorial Guinea, People's Republic of Congo, Cameroon, Gabon.	do	E	16	NA	NA
Monkey, black howler	*Alouatta pigra*	Mexico, Guatemala, Belize	do	T	16	NA	17.40(c)

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Monkey, Diana	*Cercopithecus diana*	Coastal West Africa	do	E	16	NA	NA
Monkey, howler	*Alouatta palliata* (=*villosa*)	Mexico to South America	do	E	15	NA	NA
Monkey, L'hoest's	*Cercopithecus lhoesti*	Upper Eastern Congo Basin, Cameroon	do	E	16	NA	NA
Monkey, Preuss' red colobus	*Colobus badius preussi*	Cameroon	do	E	139	NA	NA
Monkey, proboscis	*Nasalis larvatus*	Borneo	do	E	15	NA	NA
Monkey, red-backed squirrel	*Saimiri oerstedii*	Costa Rica, Panama	do	E	3	NA	NA
Monkey, red-bellied	*Cercopithecus erythrogaster*	Western Nigeria	do	E	16	NA	NA
Monkey, red-eared nose-spotted	*Cercopithecus erythrotis*	Nigeria, Cameroon, Fernando Po	do	E	16	NA	NA
Monkey, spider	*Ateles geoffroyi frontatus*	Costa Rica, Nicaragua	do	E	3	NA	NA
Monkey, spider	*Ateles geoffroyi panamensis*	Costa Rica, Panama	do	E	3	NA	NA
Monkey, Tana River red colobus	*Colobus rufomitratus* (=*badius*) *rufomitratus*	Kenya	do	E	3, 16	NA	NA
Monkey, woolly spider	*Brachyteles arachnoides*	Brazil	do	E	3	NA	NA
Monkey, yellow-tailed woolly	*Lagothrix flavicauda*	Andes of northern Peru	do	E	16	NA	NA
Monkey, Zanzibar red colobus	*Colobus kirki*	Tanzania	do	E	3	NA	NA
Mouse, Alabama beach	*Peromyscus polionotus ammobates*	U.S.A. (AL)	do	E	183	17.95(a)	NA
Mouse, Australian native	*Zyzomys* (=*Notomys*) *pedunculatus*	Australia	do	E	15	NA	NA
Mouse, Australian native	*Notomys aquilo*	do	do	E	15	NA	NA
Mouse, Choctawhatchee beach	*Peromyscus polionotus allophrys*	U.S.A. (FL)	do	E	183	17.95(a)	NA
Mouse, Field's	*Pseudomys fieldi*	Australia	do	E	4	NA	NA
Mouse, Gould's	*Pseudomys gouldii*	do	do	E	6	NA	NA
Mouse, Key Largo cotton	*Peromyscus gossypinus allapaticola*	U.S.A. (FL)	do	E	131E, 160	NA	NA
Mouse, New Holland	*Pseudomys novaehollandiae*	Australia	do	E	4	NA	NA
Mouse, Perdido Key beach	*Peromyscus polionotus trissyllepsis*	U.S.A. (AL, FL)	do	E	183	17.95(a)	NA
Mouse, salt marsh harvest	*Reithrodontomys raviventris*	U.S.A. (CA)	do	E	2	NA	NA
Mouse, Shark Bay	*Pseudomys praeconis*	Australia	do	E	4	NA	NA
Mouse, Shortridge's	*Pseudomys shortridgei*	do	do	E	4	NA	NA
Mouse, Smoky	*Pseudomys fumeus*	do	do	E	4	NA	NA
Mouse, western	*Pseudomys occidentalis*	do	do	E	4	NA	NA
Muntjac, Fea's	*Muntiacus feae*	Northern Thailand, Burma	do	E	50	NA	NA
Native-cat, eastern	*Dasyurus viverrinus*	Australia	do	E	6	NA	NA
Numbat	*Myrmecobius fasciatus*	do	do	E	4, 6	NA	NA
Ocelot	*Felis pardalis*	U.S.A. (AZ, TX) to C. and S. America	do	E	5, 119	NA	NA
Orangutan	*Pongo pygmaeus*	Borneo, Sumatra	do	E	3	NA	NA
Oryx, Arabian	*Oryx leucoryx*	Arabian Peninsula	do	E	3	NA	NA
Otter, Cameroon clawless	*Aonyx* (*Paraonyx*) *congica microdon*	Cameroon, Nigeria	do	E	3	NA	NA
Otter, giant	*Pteronura brasiliensis*	South America	do	E	3	NA	NA
Otter, long-tailed	*Lutra longicaudis* (incl. *platensis*)	do	do	E	3, 15	NA	NA
Otter, marine	*Lutra felina*	Peru south to Straits of Magellan	do	E	15	NA	NA
Otter, southern river	*Lutra provocax*	Chile, Argentina	do	E	15	NA	NA
Otter, southern sea	*Enhydra lutris nereis*	West coast U.S.A. (WA, OR, CA) south to Mexico (Baja California)	do	T	21	NA	NA

Panda, giant	*Ailuropoda melanoleuca*	People's Republic of China	do	E	139	NA	NA
Pangolin (= scaly anteater)	*Manis temmincki*	Africa	do	E	15	NA	NA
Panther, Florida	*Felis concolor coryi*	U.S.A. (LA and AR east to SC and FL)	do	E	1	NA	NA
Planigale, little	*Planigale ingrami subtilissima* (formerly *P. subtilissima*)	Australia	do	E	4	NA	NA
Planigale, southern	*Planigale tenuirostris*	do	do	E	4	NA	NA
Porcupine, thin-spined	*Chaetomys subspinosus*	Brazil	do	E	3	NA	NA
Possum, mountain pygmy	*Burramys parvus*	Australia	do	E	4	NA	NA
Possum, scaly-tailed	*Wyulda squamicaudata*	do	do	E	4	NA	NA
Prairie dog, Mexican	*Cynomys mexicanus*	Mexico	do	E	3	NA	NA
Prairie dog, Utah	*Cynomys parvidens*	U.S.A. (UT)	do	T	6, 149	NA	17.40(g)
Pronghorn, peninsular	*Antilocapra americana peninsularis*	Mexico (Baja California)	do	E	10	NA	NA
Pronghorn, Sonoran	*Antilocapra americana sonoriensis*	U.S.A. (AZ), Mexico	do	E	1, 3	NA	NA
Pudu	*Pudu pudu*	Southern South America	do	E	15	NA	NA
Puma, Costa Rican	*Felis concolor costaricensis*	Nicaragua, Panama, Costa Rica	do	E	15	NA	NA
Quokka	*Setonix brachyurus*	Australia	do	E	6	NA	NA
Rabbit, Ryukyu	*Pentalagus furnessi*	Japan (Ryukyu Islands)	do	E	50	NA	NA
Rabbit, volcano	*Romerolagus diazi*	Mexico	do	E	3	NA	NA
Rat, false water	*Xeromys myoides*	Australia	do	E	4	NA	NA
Rat, Fresno kangaroo	*Dipodomys nitratoides exilis*	U.S.A. (CA)	do	E	170	17.95(a)	NA
Rat, Morro Bay kangaroo	*Dipodomys heermanni morroensis*	do	do	E	2	17.95(a)	NA
Rat, stick-nest	*Leporillus conditor*	Australia	do	E	6	NA	NA
Rat-kangaroo, brush-tailed	*Bettongia penicillata*	do	do	E	4	NA	NA
Rat-kangaroo, Gaimard's	*Bettongia gaimardi*	do	do	E	6	NA	NA
Rat-kangaroo, Lesuer's	*Bettongia lesueur*	do	do	E	4	NA	NA
Rat-kangaroo, plain	*Caloprymnus campestris*	do	do	E	4	NA	NA
Rat-kangaroo, Queensland	*Bettongia tropica*	do	do	E	4	NA	NA
Rhinoceros, black	*Diceros bicornis*	Sub-Saharan Africa	do	E	97	NA	NA
Rhinoceros, great Indian	*Rhinoceros unicornis*	India, Nepal	do	E	4	NA	NA
Rhinoceros, Javan	*Rhinoceros sondaicus*	Indonesia, Indochina, Burma, Thailand, Sikkim, Bangladesh, Malaysia	do	E	3	NA	NA
Rhinoceros, northern white	*Ceratotherium simum cottoni*	Zaire, Sudan, Uganda, Central African Republic	do	E	3	NA	NA
Rhinoceros, Sumatran	*Dicerorhinus (= Didermoceros) sumatrensis*	Bangladesh to Vietnam to Indonesia (Borneo)	do	E	3	NA	NA
Saiga, Mongolian (antelope)	*Saiga tatarica mongolica*	Mongolia	do	E	15	NA	NA
Saki, white-nosed	*Chiropotes albinasus*	Brazil	do	E	3	NA	NA
Seal, Caribbean monk	*Monachus tropicalis*	Caribbean Sea, Gulf of Mexico	do	E	1, 2, 45	NA	NA
Seal, Hawaiian monk	*Monachus schauinslandi*	Hawaiian Archipelago	do	E	18	NA	NA
Seal, Mediterranean monk	*Monachus monachus*	Mediterranean, Northwest African Coast and Black Sea	do	E	3	NA	NA
Seladang (= Gaur)	*Bos gaurus*	Bangladesh, Southeast Asia, India	do	E	3	NA	NA
Serow, Sumatran	*Capricornis sumatraensis*	Sumatra	do	E	15	NA	NA
Serval, Barbary	*Felis serval constantina*	Algeria	do	E	3	NA	NA
Shapo	*Ovis vignei vignei*	Kashmir	do	E	15	NA	NA
Shou	*Cervus elaphus wallichi*	Tibet, Bhutan	do	E	3	NA	NA
Siamang	*Symphalangus syndactylus*	Malaysia, Indonesia	do	E	15	NA	NA
Sifakas	*Propithecus* spp. (all species)	Malagasy Republic (= Madagascar)	do	E	4	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Sloth, Brazilian three-toed	*Bradypus torquatus*	Brazil	do	E	3, 4	NA	NA
Solenodon, Cuban	*Solendon (Atopogale) cubanus*	Cuba	do	E	3	NA	NA
Solenodon, Haitian	*Solenodon paradoxus*	Dominican Republic, Haiti	do	E	3	NA	NA
Squirrel, Carolina northern flying	*Glaucomys sabrinus coloratus*	U.S.A. (NC, TN)	do	E	189	NA	NA
Squirrel, Delmarva Peninsula fox	*Sciurus niger cinereus*	U.S.A. (Delmarva Peninsula to southeast PA).	Entire, except Sussex Co., DE.	E	1, 161, 168	NA	NA
Do	do	do	U.S.A. (DE—Sussex County).	XN	161	NA	17.84(a)
Squirrel, Virginia northern flying	*Glaucomys sabrinus fuscus*	U.S.A. (VA, WV)	Entire	E	189	NA	NA
Stag, Barbary	*Cervus elephus barbarus*	Tunisia, Algeria	do	E	3	NA	NA
Stag, Kashmir	*Cervus elephus hanglu*	Kashmir	do	E	3	NA	NA
Suni, Zanzibar	*Neotragus (Nesotragus) moschatus moschatus.*	Zanzibar (and nearby islands)	do	E	50	NA	NA
Tahr, Arabian	*Hemitragus jayakari*	Oman	do	E	50	NA	NA
Tamaraw	*Bubalus mindorensis*	Philippines	do	E	4	NA	NA
Tamarin, golden-rumped (=golden-headed Tamarin, =golden-lion Marmoset).	*Leontopithecus (=Leontideus)* spp. (all species).	Brazil	do	E	3	NA	NA
Tamarin, pied	*Saguinus bicolor*	Northern Brazil	do	E	16	NA	NA
Tamarin, white-footed	*Saguinus leucopus*	Northern Colombia	do	T	16	NA	17.40(c)
Tapir, Asian	*Tapirus indicus*	Burma, Laos, Cambodia, Vietnam, Malaysia, Indonesia, Thailand.	do	E	15	NA	NA
Tapir, Brazilian	*Tapirus terrestris*	Colombia and Venezuela south to Paraguay and Argentina.	do	E	3	NA	NA
Tapir, Central American	*Tapirus bairdii*	Southern Mexico to Colombia and Ecuador.	do	E	3	NA	NA
Tapir, mountain	*Tapirus pinchaque*	Colombia, Ecuador and possibly Peru and Venezuela.	do	E	3	NA	NA
Tarsier, Philippine	*Tarsius syrichta*	Philippines	do	T	16	NA	17.40(c)
Tiger	*Panthera tigris*	Temperate and Tropical Asia	do	E	3, 5	NA	NA
Tiger, Tasmanian (=Thylacine)	*Thylacinus cynocephalus*	Australia	do	E	3	NA	NA
Uakari (all species)	*Cacajao* spp. (all species)	Peru, Brazil, Ecuador, Colombia, Venezuela.	do	E	3	NA	NA
Urial	*Ovis musimon (=orientalis) ophion*	Cyprus	do	E	15	NA	NA
Vicuna	*Vicugna vicugna*	South America (Andes)	do	E	3	NA	NA
Vole, Amargosa	*Microtus californicus scirpensis*	U.S.A. (CA)	do	E	166	17.95(a)	NA
Wallaby, banded hare	*Lagostrophus fasciatus*	Australia	do	E	4	NA	NA
Wallaby, brindled nail-tailed	*Onychogalea fraenata*	do	do	E	4	NA	NA
Wallaby, crescent nail-tailed	*Onychogalea lunata*	do	do	E	4	NA	NA
Wallaby, Parma	*Macropus parma*	do	do	E	4	NA	NA
Wallaby, Western hare	*Lagorchestes hirsutus*	do	do	E	4	NA	NA
Wallaby, yellow-footed rock	*Petrogale xanthopus*	do	do	E	6	NA	NA
Whale, blue	*Balaenoptera musculus*	Oceanic	do	E	3	NA	NA

Whale, bowhead	*Balaena mysticetus*	Oceanic (north latitudes only)	do	E	3	NA	NA
Whale, finback	*Balaenoptera physalus*	Oceanic	do	E	3	NA	NA
Whale, gray	*Eschrichtius robustus*	North Pacific Ocean: coastal and Bering Sea.	do	E	3	NA	NA
Whale, humpback	*Megaptera novaeangliae*	Oceanic	do	E	3	NA	NA
Whale, right	*Balaena glacialis*	do	do	E	3	NA	NA
Whale, Sei	*Balaenoptera borealis*	do	do	E	3	NA	NA
Whale, sperm	*Physeter catodon*	do	do	E	3	NA	NA
Wolf, gray	*Canis lupus*	Holarctic	U.S.A. (48 conterminous States, except MN), Mexico.	E	1, 6, 13, 15, 35	17.95(a)	NA
Do	do	do	U.S.A. (MN)	T	35	17.95(a)	17.40(d)
Wolf, maned	*Chrysocyon brachyurus*	Argentina, Bolivia, Brazil, Paraguay, Uruguay.	Entire	E	4	NA	NA
Wolf, red	*Canis rufus*	U.S.A. (southeastern U.S.A. west to central TX).	do	E	1	NA	NA
Wombat, hairy-nosed (=Barnard's and Queensland hairy-nosed).	*Lasiorhinus krefftii* (formerly *L. barnardi* and *L. gillespiei*).	Australia	do	E	4, 6	NA	NA
Woodrat, Key Largo	*Neotoma floridana smalli*	U.S.A. (FL)	do	E	131E, 160	NA	NA
Yak, wild	*Bos grunniens*	China (Tibet), India	do	E	3	NA	NA
Zebra, Grevy's	*Equus grevyi*	Kenya, Ethiopia, Somalia	do	T	54	NA	NA
Zebra, Hartmann's mountain	*Equus zebra hartmannae*	Namibia, Angola	do	T	54, 111	NA	NA
Zebra, mountain	*Equus zebra zebra*	South Africa	do	E	15, 111	NA	NA
BIRDS							
Akepa, Hawaii (honeycreeper)	*Loxops coccineus coccineus*	U.S.A. (HI)	do	E	2	NA	NA
Akepa, Maui (honeycreeper)	*Loxops coccineus ochraceus*	do	do	E	2	NA	NA
Akialoa, Kauai (honeycreeper)	*Hemignathus procerus*	do	do	E	1	NA	NA
Akiapolaau (honeycreeper)	*Hemignathus munroi* (=*wilsoni*)	do	do	E	1	NA	NA
Albatross, short-tailed	*Diomedea albatrus*	North Pacific Ocean: Japan, U.S.S.R., U.S.A. (AK, CA, HI, OR, WA).	Entire, except U.S.A.	E	3	NA	NA
Blackbird, yellow-shouldered	*Agelaius xanthomus*	U.S.A. (PR)	Entire	E	17	17.95(b)	NA
Bobwhite, masked (quail)	*Colinus virginianus ridgwayi*	U.S.A. (AZ), Mexico (Sonora)	do	E	1, 3	NA	NA
Booby, Abbott's	*Sula abbotti*	Indian Ocean: Christmas Island	do	E	15	NA	NA
Bristlebird, western	*Dasyornis brachypterus longirostris*	Australia	do	E	3	NA	NA
Bristlebird, western rufous	*Dasyornis broadbenti littoralis*	do	do	E	15	NA	NA
Broadbill, Guam	*Myiagra freycineti*	Western Pacific Ocean: U.S.A. (Guam)	do	E	156	NA	NA
Bulbul, Mauritius olivaceous	*Hypsipetes borbonicus olivaceus*	Indian Ocean: Mauritius	do	E	3	NA	NA
Bullfinch, Sao Miguel (finch)	*Pyrrhula pyrrhula murina*	Eastern Atlantic Ocean: Azores	do	E	3	NA	NA
Bushwren, New Zealand	*Xenicus longipes*	New Zealand	do	E	3	NA	NA
Bustard, great Indian	*Choriotis nigriceps*	India, Pakistan	do	E	3	NA	NA
Cahow (=Bermuda Petrel)	*Pterodroma cahow*	North Atlantic Ocean: Bermuda	do	E	3	NA	NA
Condor, Andean	*Vultur gryphus*	Colombia to Chile and Argentina	do	E	4	NA	NA
Condor, California	*Gymnogyps californianus*	U.S.A. (OR, CA), Mexico (Baja California)	do	E	1	17.95(b)	NA
Coot, Hawaiian (=alae keo keo)	*Fulica americana alai*	U.S.A. (HI)	do	E	2	NA	NA
Cotinga, banded	*Cotinga maculata*	Brazil	do	E	15	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Cotinga, white-winged	*Xipholena atropurpurea*	......do	......do	E	15	NA	NA
Crane, black-necked	*Grus nigricollis*	China (Tibet)	......do	E	15	NA	NA
Crane, Cuba sandhill	*Grus canadensis nesiotes*	West Indies: Cuba	......do	E	15	NA	NA
Crane, hooded	*Grus monacha*	Japan, U.S.S.R	......do	E	4	NA	NA
Crane, Japanese	*Grus japonensis*	China, Japan, Korea, U.S.S.R	......do	E	3	NA	NA
Crane, Mississippi sandhill	*Grus canadensis pulla*	U.S.A. (MS)	......do	E	6	17.95(b)	NA
Crane, Siberian white	*Grus leucogeranus*	U.S.S.R. (Siberia) to India, including Iran and China.	......do	E	4	NA	NA
Crane, white-naped	*Grus vipio*	Mongolia	......do	E	15	NA	NA
Crane, whooping	*Grus americana*	Canada, U.S.A. (Rocky Mountains east to Carolinas), Mexico.	......do	E	1, 3	17.95(b)	NA
Creeper, Hawaii	*Oreomystis* (= *Loxops*) *mana*	U.S.A. (HI)	......do	E	10	NA	NA
Creeper, Molokai (= kakawahie)	*Paroreomyza* (= *Oreomystis*, = *Loxops*) *flammea*	......do	......do	E	2	NA	NA
Creeper, Oahu (= alauwahio)	*Paroreomyza* (= *Oreomystis*, = *Loxops*) *maculata*.	......do	......do	E	2	NA	NA
Crow, Hawaiian (= 'alala)	*Corvus hawaiiensis* (= *tropicus*)	......do	......do	E	1	NA	NA
Crow, Mariana	*Corvus kubaryi*	Western Pacific Ocean: U.S.A. (Guam, Rota).	......do	E	156	NA	NA
Cuckoo-shrike, Mauritius	*Coquus* (= *Coracina*) *typicus*	Indian Ocean: Mauritius	......do	E	3	NA	NA
Cuckoo-shrike, Reunion	*Coquus* (= *Coracina*) *newtoni*	Indian Ocean: Reunion	......do	E	3	NA	NA
Curassow, razor-billed	*Mitu* (= *Crax*) *mitu mitu*	Brazil (Eastern)	......do	E	15	NA	NA
Curassow, red-billed	*Crax blumenbachii*	Brazil	......do	E	4	NA	NA
Curassow, Trinidad white-headed	*Pipile pipile pipile*	West Indies: Trinidad	......do	E	3	NA	NA
Curlew, Eskimo	*Numenius borealis*	Alaska and northern Canada to Argentina.	......do	E	1, 3	NA	NA
Dove, cloven-feathered	*Drepanoptila holosericea*	Southwest Pacific Ocean: New Caledonia.	......do	E	3	NA	NA
Dove, Grenada gray-fronted	*Leptotila rufaxilla wellsi*	West Indies: Grenada	......do	E	3	NA	NA
Duck, Hawaiian (= koloa)	*Anas wyvilliana*	U.S.A. (HI)	......do	E	1	NA	NA
Duck, Laysan	*Anas laysanensis*	......do	......do	E	1	NA	NA
Duck, pink-headed	*Rhodonessa caryophyllacea*	India	......do	E	15	NA	NA
Duck, white-winged wood	*Cairina scutulata*	India, Malaysia, Indonesia, Thailand	......do	E	3	NA	NA
Eagle, Greenland white-tailed	*Haliaeetus albicilla groenlandicus*	Greenland and adjacent Atlantic islands	......do	E	15	NA	NA
Eagle, harpy	*Harpia harpyja*	Mexico south to Argentina	......do	E	15	NA	NA
Eagle, Philippine (= monkey-eating)	*Pithecophaga jefferyi*	Philippines	......do	E	3	NA	NA
Eagle, bald	*Haliaeetus leucocephalus*	North America south to northern Mexico	U.S.A. (conterminous States, except WA, OR, MN, WI, MI).	E	1, 34	NA	NA
Do	......do	......do	U.S.A. (WA, OR, MN, WI, MI).	T	34	NA	17.41(a)
Eagle, Spanish imperial	*Aquila heliaca adalberti*	Spain, Morocco, Algeria	Entire	E	3	NA	NA
Egret, Chinese	*Egretta eulophotes*	China, Korea	......do	E	3	NA	NA

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Falcon, American peregrine	*Falco peregrinus anatum*	Nests from central Alaska across north-central Canada to central Mexico, winters south to South America.	......do	E	2, 3, 145	17.95(b)	NA
Falcon, Arctic peregrine	*Falco peregrinus tundrius*	Nests from northern Alaska to Greenland; winters south to Central and South America.	......do	T	2, 3, 145	NA	NA
Falcon, Eurasian peregrine	*Falco peregrinus peregrinus*	Europe, Eurasia south to Africa and Mid-east.	......do	E	15	NA	NA
Falcon, peregrine	*Falco peregrinus*	Worldwide, except Antarctica and most Pacific Islands.	Wherever found in wild in the conterminous 48 States.	E(S/A)	145	NA	NA
Finch, Laysan (honeycreeper)	*Telespyza* (=*Psittirostra*) *cantans*	U.S.A. (HI)	Entire	E	1	NA	NA
Finch, Nihoa (honeycreeper)	*Telespyza* (=*Psittirostra*) *ultima*	......do	......do	E	1	NA	NA
Flycatcher, Euler's	*Empidonax euleri johnstonei*	West Indies: Grenada	......do	E	3	NA	NA
Flycatcher, Seychelles paradise	*Terpsiphone corvina*	Indian Ocean: Seychelles	......do	E	3	NA	NA
Flycatcher, Tahiti	*Pomarea nigra*	South Pacific Ocean: Tahiti	......do	E	3	NA	NA
Fody, Seychelles (weaver-finch)	*Foudia sechellarum*	Indian Ocean: Seychelles	......do	E	3	NA	NA
Frigatebird, Andrew's	*Fregata andrewsi*	East Indian Ocean	......do	E	15	NA	NA
Goose, Aleutian Canada	*Branta canadensis leucopareia*	U.S.A. (AK, CA, OR, WA), Japan	......do	E	1, 3	NA	NA
Goose, Hawaiian (=nene)	*Nesochen* (=*Branta*) *sandvicensis*	U.S.A. (HI)	......do	E	1	NA	NA
Goshawk, Christmas Island	*Accipiter fasciatus natalis*	Indian Ocean: Christmas Island	......do	E	3	NA	NA
Grackle, slender-billed	*Quiscalus* (=*Cassidix*) *palustris*	Mexico	......do	E	3	NA	NA
Grasswren, Eyrean (flycatcher)	*Amytornis goyderi*	Australia	......do	E	3	NA	NA
Grebe, Atitlan	*Podilymbus gigas*	Guatemala	......do	E	3	NA	NA
Greenshank, Nordmann's	*Tringa guttifer*	U.S.S.R., Japan, south to Malaya, Borneo	......do	E	15	NA	NA
Guan, horned	*Oreophasis derbianus*	Guatemala, Mexico	......do	E	3	NA	NA
Gull, Audouin's	*Larus audouinii*	Mediterranean Sea	......do	E	3	NA	NA
Gull, relict	*Larus relictus*	India, China	......do	E	15	NA	NA
Hawk, Anjouan Island sparrow	*Accipiter francesii pusillus*	Indian Ocean: Comoro Islands	......do	E	3	NA	NA
Hawk, Galapagos	*Buteo galapagoensis*	Ecuador (Galapagos Islands)	......do	E	3	NA	NA
Hawk, Hawaiian (=io)	*Buteo solitarius*	U.S.A. (HI)	......do	E	1	NA	NA
Hermit, hook-billed (hummingbird)	*Glaucis* (=*Ramphodon*) *dohrnii*	Brazil	......do	E	15	NA	NA
Honeycreeper, crested (='akohekohe)	*Palmeria dolei*	U.S.A. (HI)	......do	E	1	NA	NA
Hornbill, helmeted	*Rhinoplax vigil*	Thailand, Malaysia	......do	E	15	NA	NA
Honeyeater, helmeted	*Meliphaga cassidix*	Australia	......do	E	4	NA	NA
Ibis, Japanese crested	*Nipponia nippon*	China, Japan, U.S.S.R., Korea	......do	E	3	NA	NA
Kagu	*Rhynochetos jubatus*	South Pacific Ocean: New Caledonia	......do	E	3	NA	NA
Kakapo (=owl-parrot)	*Strigops habroptilus*	New Zealand	......do	E	3	NA	NA
Kestrel, Mauritius	*Falco punctatus*	Indian Ocean: Mauritius	......do	E	3	NA	NA
Kestrel, Seychelles	*Falco araea*	Indian Ocean: Seychelles Islands	......do	E	3	NA	NA
Kingfisher, Guam Micronesian	*Halcyon cinnamomina cinnamomina*	Western Pacific Ocean: U.S.A. (Guam)	......do	E	156	NA	NA
Kite, Cuba hook-billed	*Chondrohierax uncinatus wilsonii*	West Indies: Cuba	......do	E	3	NA	NA
Kite, Grenada hook-billed	*Chondrohierax uncinatus mirus*	West Indies: Grenada	......do	E	3	NA	NA
Kite, Everglade snail	*Rostrhamus sociabilis plumbeus*	U.S.A. (FL)	......do	E	1	17.95(b)	NA
Kokako (wattlebird)	*Callaeas cinerea*	New Zealand	......do	E	3	NA	NA
Macaw, glaucous	*Anodorhynchus glaucus*	Paraguay, Uruguay, Brazil	......do	E	15	NA	NA
Macaw, indigo	*Anodorhynchus leari*	Brazil	......do	E	15	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Macaw, little blue	*Cyanopsitta spixii*	do	do	E	15	NA	NA
Magpie-robin, Seychelles (thrush)	*Copsychus sechellarum*	Indian Ocean: Seychelles Islands	do	E	3	NA	NA
Malkoha, red-faced (cuckoo)	*Phaenicophaeus pyrrhocephalus*	Sri Lanka (= Ceylon)	do	E	3	NA	NA
Mallard, Mariana	*Anas oustaleti*	West Pacific Ocean: U.S.A. (Guam, Mariana Islands)	do	E	23	NA	NA
Megapode, Micronesian (= La Perouse's)	*Megapodius laperouse*	West Pacific Ocean: U.S.A. (Palau Island, Mariana Islands)	do	E	3	NA	NA
Megapode, Maleo	*Macrocephalon maleo*	Indonesia (Celebes)	do	E	3	NA	NA
Millerbird, Nihoa (old world warbler)	*Acrocephalus familiaris kingi*	U.S.A. (HI)	do	E	1	NA	NA
Monarch, Tinian (old world flycatcher)	*Monarcha takatsukasae*	Western Pacific Ocean: U.S.A. (Mariana Islands)	do	E	3	NA	NA
Moorhen (= gallinule), Hawaiian common	*Gallinula chloropus sandvicensis*	U.S.A. (HI)	do	E	1	NA	NA
Moorhen (= gallinule), Mariana common	*Gallinula chloropus guami*	Western Pacific Ocean: U.S.A. (Guam, Tinian, Saipan, Pagan)	do	E	156	NA	NA
Nightjar (= whip-poor-will), Puerto Rico	*Caprimulgus noctitherus*	U.S.A. (PR)	do	E	6	NA	NA
Nukupu'u (honeycreeper)	*Hemignathus lucidus*	U.S.A. (HI)	do	E	1, 2	NA	NA
'O'o, Kauai (= 'O'o 'A'a) (honeyeater)	*Moho braccatus*	do	do	E	1	NA	NA
Ostrich, Arabian	*Struthio camelus syriacus*	Jordan, Saudi Arabia	do	E	3	NA	NA
Ostrich, West African	*Struthio camelus spatzi*	Spanish Sahara	do	E	3	NA	NA
'O'u (honeycreeper)	*Psittirostra psittacea*	U.S.A. (HI)	do	E	1	NA	NA
Owl, Anjouan scops	*Otus rutilus capnodes*	Indian Ocean: Comoro Island	do	E	3	NA	NA
Owl, giant scops	*Otus gurneyi*	Philippines: Marinduque and Mindanao Island	do	E	15	NA	NA
Owl, Seychelles	*Otus insularis*	Indian Ocean: Seychelles Islands	do	E	3	NA	NA
Owlet, Morden's (= Sokoke)	*Otus ireneae*	Kenya	do	E	3	NA	NA
Palila (honeycreeper)	*Loxioides (= Psittirostra) bailleui*	U.S.A. (HI)	do	E	1	17.95(b)	NA
Parakeet, Forbes'	*Cyanoramphus auriceps forbesi*	New Zealand	do	E	3, 15	NA	NA
Parakeet, golden	*Aratinga guarouba*	Brazil	do	E	4	NA	NA
Parakeet, golden-shouldered (= hooded)	*Psephotus chrysopterygius*	Australia	do	E	3	NA	NA
Parakeet, Mauritius	*Psittacula echo*	Indian Ocean: Mauritius	do	E	3	NA	NA
Parakeet, ochre-marked	*Pyrrhura cruentata*	Brazil	do	E	3	NA	NA
Parakeet, orange-bellied	*Neophema chrysogaster*	Australia	do	E	4	NA	NA
Parakeet, paradise (= beautiful)	*Psephotus pulcherrimus*	do	do	E	4	NA	NA
Parakeet, scarlet-chested (= splendid)	*Neophema splendida*	do	do	E	4	NA	NA
Parakeet, turquoise	*Neophema pulchella*	do	do	E	3	NA	NA
Parrot, Australian	*Geopsittacus occidentalis*	do	do	E	3	NA	NA
Parrot, Bahaman or Cuban	*Amazona leucocephala*	West Indies: Cuba, Bahamas, Caymans	do	E	3, 15	NA	NA
Parrot, ground	*Pezoporus wallicus*	Australia	do	E	6	NA	NA
Parrot, imperial	*Amazona imperialis*	West Indies: Dominica	do	E	3	NA	NA
Parrot, Puerto Rican	*Amazona vittata*	U.S.A. (PR)	do	E	1	NA	NA
Parrot, red-browed	*Amazona rhodocorytha*	Brazil	do	E	3	NA	NA
Parrot, red-capped	*Pionopsitta pileata*	do	do	E	15	NA	NA
Parrot, red-necked	*Amazona arausiaca*	West Indies: Dominica	do	E	50	NA	NA

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Parrot, red-spectacled	*Amazona pretrei pretrei*	Brazil, Argentina	do	E	15	NA	NA
Parrot, St. Lucia	*Amazona versicolor*	West Indies: St. Lucia	do	E	3	NA	NA
Parrot, St. Vincent	*Amazona guildingii*	West Indies: St. Vincent	do	E	3	NA	NA
Parrot, thick-billed	*Rhynchopsitta pachyrhyncha*	Mexico, U.S.A. (AZ, NM)	Mexico	E	3	NA	NA
Parrot, vinaceous-breasted	*Amazona vinacea*	Brazil	Entire	E	15	NA	NA
Parrotbill, Maui (honeycreeper)	*Pseudonestor xanthophrys*	U.S.A. (HI)	do	E	1	NA	NA
Pelican, brown	*Pelecanus occidentalis*	U.S.A (Carolinas to TX, CA), West Indies, C. and S. America: Coastal	Entire, except U.S. Atlantic coast, FL, AL.	E	2, 3, 171	NA	NA
Penguin, Galapagos	*Spheniscus mendiculus*	Ecuador (Galapagos Islands)	Entire	E	3	NA	NA
Petrel, Hawaiian dark-rumped	*Pterodroma phaeopygia sandwichensis*	U.S.A. (HI)	do	E	2, 4, 1	NA	NA
Pheasant, bar-tailed	*Syrmaticus humiae*	Burma, China	do	E	3	NA	NA
Pheasant, Blyth's tragopan	*Tragopan blythii*	Burma, China, India	do	E	3	NA	NA
Pheasant, brown eared	*Crossoptilon mantchuricum*	China	do	E	3	NA	NA
Pheasant, Cabot's tragopan	*Tragopan caboti*	do	do	E	3	NA	NA
Pheasant, Chinese monal	*Lophophorus lhuysii*	do	do	E	3	NA	NA
Pheasant, Edward's	*Lophura edwardsi*	Vietnam	do	E	3	NA	NA
Pheasant, Elliot's	*Syrmaticus ellioti*	China	do	E	15	NA	NA
Pheasant, imperial	*Lophura imperialis*	Vietnam	do	E	3	NA	NA
Pheasant, Mikado	*Syrmaticus mikado*	Taiwan	do	E	3	NA	NA
Pheasant, Palawan peacock	*Polyplectron emphanum*	Philippines	do	E	3	NA	NA
Pheasant, Sclater's monal	*Lophophorus sclateri*	Burma, China, India	do	E	3	NA	NA
Pheasant, Swinhoe's	*Lophura swinhoii*	Taiwan	do	E	3	NA	NA
Pheasant, western tragopan	*Tragopan melanocephalus*	India, Pakistan	do	E	3	NA	NA
Pheasant, white eared	*Crossoptilon crossoptilon*	China (Tibet), India	do	E	4	NA	NA
Pigeon, Azores wood	*Columba palumbus azorica*	East Atlantic Ocean: Azores	do	E	3	NA	NA
Pigeon, Chatham Island	*Hemiphaga novaeseelandiae chathamensis*	New Zealand	do	E	3	NA	NA
Pigeon, Mindoro zone-tailed	*Ducula mindorensis*	Philippines	do	E	15	NA	NA
Pigeon, Puerto Rican plain	*Columba inornata wetmorei*	U.S.A. (PR)	do	E	2	NA	NA
Piping-guan, black-fronted	*Pipile jacutinga*	Argentina	do	E	15	NA	NA
Pitta, Koch's	*Pitta kochi*	Philippines	do	E	15	NA	NA
Plover, New Zealand shore	*Thinornis novaeseelandiae*	New Zealand	do	E	3	NA	NA
Po'ouli (honeycreeper)	*Melamprosops phaeosoma*	U.S.A. (HI)	do	E	10	NA	NA
Prairie-chicken, Attwater's greater	*Tympanuchus cupido attwateri*	U.S.A. (TX)	do	E	1	NA	NA
Quail, Merriam's Montezuma	*Cyrtonyx montezumae merriami*	Mexico (Vera Cruz)	do	E	15	NA	NA
Quetzal, resplendent	*Pharomachrus mocinno*	Mexico to Panama	do	E	15	NA	NA
Rail, Aukland Island	*Rallus pectoralis muelleri*	New Zealand	do	E	3	NA	NA
Rail, California clapper	*Rallus longirostris obsoletus*	U.S.A. (CA)	do	E	2	NA	NA
Rail, Guam	*Rallus owstoni*	Western Pacific Ocean: U.S.A. (Guam)	do	E	146E, 156	NA	NA
Rail, light-footed clapper	*Rallus longirostris levipes*	U.S.A. (CA), Mexico (Baja California)	do	E	2	NA	NA
Rail, Lord Howe wood	*Tricholimnas sylvestris*	Australia (Lord Howe Island)	do	E	15	NA	NA
Rail, Yuma clapper	*Rallus longirostris yumanensis*	Mexico, U.S.A. (AZ, CA)	do	E	1	NA	NA
Rhea, Darwin's	*Pterocnemia pennata*	Argentina, Bolivia, Peru, Uruguay	do	E	3	NA	NA
Robin, Chatham Island	*Petroica traversi*	New Zealand	do	E	3	NA	NA
Robin, scarlet-breasted (flycatcher)	*Petroica multicolor multicolor*	Australia (Norfolk Island)	do	E	3	NA	NA
Rockfowl, grey-necked	*Picathartes oreas*	Cameroon, Gabon	do	E	3	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Rockfowl, white-necked	*Picathartes gymnocephalus*	Africa: Togo to Sierra Leone	do	E	3	NA	NA
Roller, long-tailed ground	*Uratelornis chimaera*	Malagasy Republic (=Madagascar)	do	E	3	NA	NA
Scrub-bird, noisy	*Atrichornis clamosus*	Australia	do	E	3	NA	NA
Shama, Cebu black (thrush)	*Copsychus niger cebuensis*	Philippines	do	E	3	NA	NA
Shearwater, Newell's Townsend's (formerly Manx) (=A'o)	*Puffinus auricularis* (formerly *puffinus*) *newelli*	U.S.A. (HI)	do	T	10	NA	NA
Shrike, San Clemente loggerhead	*Lanius ludovicianus mearnsi*	U.S.A. (CA)	do	E	26	NA	NA
Siskin, red	*Carduelis* (=*Spinus*) *cucullata*	South America	do	E	15	NA	NA
Sparrow, Cape Sable seaside	*Ammodramus* (=*Ammospiza*) *maritimus mirabilis*	U.S.A. (FL)	do	E	1	17.95(b)	NA
Sparrow, dusky seaside	*Ammodramus* (=*Ammospiza*) *maritimus nigrescens*	do	do	E	1	17.95(b)	NA
Sparrow, San Clemente sage	*Amphispiza belli clementeae*	U.S.A. (CA)	do	T	26	NA	NA
Starling, Ponape mountain	*Aplonis pelzelni*	West Pacific Ocean: U.S.A. (Caroline Islands)	do	E	3	NA	NA
Starling, Rothschild's (myna)	*Leucopsar rothschildi*	Indonesia (Bali)	do	E	3	NA	NA
Stilt, Hawaiian (=Ae'o)	*Himantopus himantopus knudseni*	U.S.A. (Hawaii)	do	E	2	NA	NA
Stork, oriental white	*Ciconia ciconia boyciana*	China, Japan, Korea, U.S.S.R.	do	E	3	NA	NA
Stork, wood	*Mycteria americana*	U.S.A., (CA, AZ, TX, to Carolinas), Mexico, Central and South America	U.S.A. (AL, FL, GA, SC).	E	142	NA	NA
Swiftlet, Vanikoro	*Aerodramus* (=*Collocalia*) *vanikorensis bartschi*	Western Pacific Ocean: U.S.A. (Guam, Rota, Tinian, Saipan, Agiguan)	Entire	E	156	NA	NA
Teal, Campbell Island flightless	*Anas aucklandica nesiotis*	New Zealand (Campbell Island)	do	E	15	NA	NA
Tern, California least	*Sterna antillarum* (=*albifrons*) *browni*	Mexico, U.S.A. (CA)	do	E	2, 3	NA	NA
Tern, least	*Sterna antillarum*	U.S.A. (Atlantic and Gulf coasts, Miss. R. Basin, CA), Gr. and Lesser Antilles, Bahamas, Mexico; winters C. America, northern S. America	U.S.A. [AR, CO, IA, IL, [illegible]S, KY, LA (Miss. R. and tribs. N of Baton Rouge), MS (Miss. R.), MO, MT, NE, NM, ND, OK, SD, TN, TX (Except within 50 miles of coast)].	E	182	NA	NA
Thrasher, white-breasted	*Ramphocinclus brachyurus*	West Indies: St. Lucia, Martinique	Entire	E	3	NA	NA
Thrush, large Kauai	*Myadestes* (=*Phaeornis*) *myadestinus*	U.S.A. (HI)	do	E	2	NA	NA
Thrush, Molokai (=oloma'o)	*Myadestes* (=*Phaeornis*) *lanaiensis* (=*obscurus*) *rutha*	do	do	E	2	NA	NA
Thrush, New Zealand (wattlebird)	*Turnagra capensis*	New Zealand	do	E	3	NA	NA
Thrush, small Kauai (=puaiohi)	*Myadestes* (=*Phaeornis*) *palmeri*	U.S.A. (HI)	do	E	1	NA	NA
Tinamou, solitary	*Tinamus solitarius*	Brazil, Paraguay, Argentina	do	E	15	NA	NA
Trembler, Martinique (thrasher)	*Cinclocerthia ruficauda gutturalis*	West Indies: Martinique	do	E	3	NA	NA
Wanderer, plain (collared-hemipode)	*Pedionomous torquatus*	Australia	do	E	6	NA	NA

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Warbler (wood), Bachman's	*Vermivora bachmanii*	U.S.A.(Southeastern), Cuba	do	E	1, 3	NA	NA
Warbler (wood), Barbados yellow	*Dendroica petechia petechia*	West Indies: Barbados	do	E	3	NA	NA
Warbler (wood), Kirtland's	*Dendroica kirtlandii*	U.S.A. (principally MI), Canada, West Indies: Bahama Islands.	do	E	1, 3	NA	NA
Warbler (willow), nightingale reed	*Acrocephalus luscinia*	Western Pacific Ocean	U.S.A. (Mariana Islands).	E	3, 4	NA	NA
Warbler (willow), Rodrigues	*Bebromis rodericanus*	Mauritius (Rodrigues Islands)	Entire	E	3	NA	NA
Warbler (wood), Semper's	*Leucopeza semperi*	West Indies: St. Lucia	do	E	3	NA	NA
Warbler (willow), Seychelles	*Bebromis sechellensis*	Indian Ocean: Seychelles Island	do	E	3	NA	NA
Whipbird, Western	*Psophodes nigrogularis*	Australia	do	E	3	NA	NA
White-eye, bridled	*Zosterops conspicillata conspicillata*	Western Pacific Ocean: U.S.A. (Guam)	do	E	156	NA	NA
White-eye, Norfolk Island	*Zosterops albogularis*	Indian Ocean: Norfolk Islands	do	E	15	NA	NA
White-eye, Ponape greater	*Rukia longirostra (=sanfordi)*	West Pacific Ocean: U.S.A. (Caroline Islands).	do	E	3	NA	NA
White-eye, Seychelles	*Zosterops modesta*	Indian Ocean: Seychelles	do	E	3	NA	NA
Woodpecker, imperial	*Campephilus imperialis*	Mexico	do	E	3	NA	NA
Woodpecker, ivory-billed	*Campephilus principalis*	U.S.A. (southcentral and southeastern), Cuba.	do	E	1, 3	NA	NA
Woodpecker, red-cockaded	*Picoides (=Dendrocopos) borealis*	U.S.A. (southcentral and southeastern)	do	E	2	NA	NA
Woodpecker, Tristam's	*Dryocopus javensis richardsi*	Korea	do	E	3	NA	NA
Wren, Guadeloupe house	*Troglodytes aedon guadeloupensis*	West Indies: Guadeloupe	do	E	3	NA	NA
Wren, St. Lucia house	*Troglodytes aedon mesoleucus*	West Indies: St. Lucia	do	E	3	NA	NA
REPTILES							
Alligator, American	*Alligator mississippiensis*	Southeastern U.S.A	Wherever found in wild except those areas where listed as threatened as set forth below.	E	1, 11, 51, 60, 113, 134	NA	NA
Do	do	do	U.S.A. (FL and certain areas of GA and SC, as set forth in 17.42(a)(1)).	T	20, 47, 51, 60, 134	NA	17.42(a)
Do	do	do	U.S.A. (LA and TX)	T(S/A)	11, 47, 51, 60, 113, 134	NA	17.42(a)
Do	do	do	In captivity wherever found.	T(S/A)	11, 47,51	NA	17.42(a)
Alligator, Chinese	*Alligator sinensis*	China	Entire	E	15	NA	NA
Anole, Culebra Island giant	*Anolis roosevelti*	U.S.A. (PR: Culebra Island)	do	E	25	17.95(c)	NA
Boa, Jamaican	*Epicrates subflavus*	Jamaica	do	E	3	NA	NA
Boa, Mona	*Epicrates monensis monensis*	U.S.A. (PR)	do	T	33	17.95(c)	NA
Boa, Puerto Rico	*Epicrates inornatus*	do	do	E	2	NA	NA
Boa, Round Island [no common name]	*Casarea dussumieri*	Indian Ocean: Mauritius	do	E	88	NA	NA
Boa, Round Island [no common name]	*Bolyeria multocarinata*	do	do	E	88	NA	NA

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Boa, Virgin Islands tree	*Epicrates monensis granti*	U.S. and British Virgin Islands	......do	E	2, 86	NA	NA
Caiman, Apaporis River	*Caiman crocodilus apaporiensis*	Colombia	......do	E	15	NA	NA
Caiman, black	*Melanosuchus niger*	Amazon basin	......do	E	15	NA	NA
Caiman, broad-snouted	*Caiman latirostris*	Brazil, Argentina, Paraguay, Uruguay	......do	E	15	NA	NA
Caiman, Yacare	*Caiman crocodilus yacare*	Bolivia, Argentina, Peru, Brazil	......do	E	3	NA	NA
Chuckwalla, San Esteban Island	*Sauromalus varius*	Mexico	......do	E	88	NA	NA
Crocodile African dwarf	*Osteolaemus tetraspis tetraspis*	West Africa	......do	E	15	NA	NA
Crocodile, African slender-snouted	*Crocodylus cataphractus*	Western and central Africa	......do	E	5	NA	NA
Crocodile, American	*Crocodylus acutus*	U.S.A. (FL), Mexico, South America, Central America, Caribbean.	......do	E	10, 87	17.95(c)	NA
Crocodile, Ceylon mugger	*Crocodylus palustris kimbula*	Sri Lanka	......do	E	15	NA	NA
Crocodile, Congo dwarf	*Osteolaemus tetraspis osborni*	Congo River drainage	......do	E	15	NA	NA
Crocodile, Cuban	*Crocodylus rhombifer*	Cuba	......do	E	3	NA	NA
Crocodile, Morelet's	*Crocodylus moreletii*	Mexico, Belize, Guatemala	......do	E	3	NA	NA
Crocodile, mugger	*Crocodylus palustris palustris*	India, Pakistan, Iran, Bangladesh	......do	E	15	NA	NA
Crocodile, Nile	*Crocodylus niloticus*	Africa	......do	E	3	NA	NA
Crocodile, Orinoco	*Crocodylus intermedius*	South America: Orinoco River Basin	......do	E	3	NA	NA
Crocodile, Philippine	*Crocodylus novaeguineae mindorensis*	Philippine Islands	......do	E	15	NA	NA
Crocodile, saltwater (=estuarine)	*Crocodylus porosus*	Southeast Asia, Australia, Papua-New Guinea, Pacific Islands.	Entire, except Papua-New Guinea.	E	87	NA	NA
Crocodile, Siamese	*Crocodylus siamensis*	Southeast Asia, Malay Peninsula	Entire	E	15	NA	NA
Gavial (=gharial)	*Gavialis gangeticus*	Pakistan, Burma, Bangladesh, India, Nepal.	......do	E	3, 15	NA	NA
Gecko, day	*Phelsuma edwardnewtoni*	Indian Ocean: Mauritius	......do	E	3	NA	NA
Gecko, Monito	*Sphaerodactylus micropithecus*	U.S.A. (PR)	......do	E	125	17.95(c)	NA
Gecko, Round Island day	*Phelsuma guentheri*	Indian Ocean: Mauritius	......do	E	3	NA	NA
Gecko, Serpent Island	*Cyrtodactylus serpensinsula*	......do	......do	T	129	NA	NA
Iguana, Acklins ground	*Cyclura rileyi nuchalis*	West Indies: Bahamas	......do	T	129	NA	NA
Iguana, Allen's Cay	*Cyclura cychlura inornata*	......do	......do	T	129	NA	NA
Iguana, Andros Island ground	*Cyclura cychlura cychlura*	......do	......do	T	129	NA	NA
Iguana, Anegada ground	*Cyclura pinguis*	West Indies: British Virgin Islands (Anegada Island).	......do	E	3	NA	NA
Iguana, Barrington land	*Conolophus pallidus*	Ecuador (Galapagos Islands)	......do	E	3	NA	NA
Iguana, Cayman Brac ground	*Cyclura nubila caymanensis*	West Indies: Cayman Islands	......do	T	129	NA	NA
Iguana, Cuban ground	*Cyclura nubila nubila*	Cuba	Entire (excluding population introduced in Puerto Rico).	T	129	NA	NA
Iguana, Exuma Island	*Cyclura cychlura figginsi*	West Indies: Bahamas	Entire	T	129	NA	NA
Iguana, Fiji banded	*Brachylophus fasciatus*	Pacific: Fiji, Tonga	......do	E	86	NA	NA
Iguana, Fiji crested	*Brachylophus vitiensis*	Pacific: Fiji	......do	E	86	NA	NA
Iguana, Grand Cayman ground	*Cyclura nubila lewisi*	West Indies: Cayman Islands	......do	E	129	NA	NA

Iguana, Jamaican	*Cyclura collei*	West Indies: Jamaica	do	E	129	NA	NA
Iguana, Mayaguana	*Cyclura carinata bartschi*	West Indies: Bahamas	do	T	129	NA	NA
Iguana, Mona ground	*Cyclura stejnegeri*	U.S.A. (PR: Mona Island)	do	T	33	17.95(c)	NA
Iguana, Turks and Caicos	*Cyclura carinata carinata*	West Indies: Turks and Caicos Islands	do	T	129	NA	NA
Iguana, Watling Island ground	*Cyclura rileyi rileyi*	West Indies: Bahamas	do	E	129	NA	NA
Iguana, White Cay ground	*Cyclura rileyi cristata*	do	do	T	129	NA	NA
Lizard, blunt-nosed leopard	*Gambelia (=Crotaphytus) silus*	U.S.A. (CA)	do	E	1	NA	NA
Lizard, Coachella Valley fringe-toed	*Uma inornata*	do	do	T	105	17.95(c)	NA
Lizard, Hierro giant	*Gallotia simonyi simonyi*	Spain (Canary Islands)	do	E	144	NA	NA
Lizard, Ibiza wall	*Podarcis pityusensis*	Spain (Balearic Islands)	do	T	144	NA	NA
Lizard, Island night	*Xantusia (=Klauberina) riversiana*	U.S.A. (CA)	do	T	28	NA	NA
Lizard, St. Croix ground	*Ameiva polops*	U.S.A. (VI)	do	E	24	17.95(c)	NA
Monitor, Bengal	*Varanus bengalensis*	Iran, Iraq, India, Sri Lanka, Malaysia, Afghanistan, Burma, Vietnam, Thailand.	do	E	15	NA	NA
Monitor, desert	*Varanus griseus*	North Africa to Neareast, Caspian Sea through U.S.S.R. to Pakistan, Northwest India.	do	E	15	NA	NA
Monitor, Komodo Island	*Varanus komodoensis*	Indonesia (Komodo, Rintja, Padar, and western Flores Island).	do	E	15	NA	NA
Monitor, yellow	*Varanus flavescens*	West Pakistan through India to Bangladesh.	do	E	15	NA	NA
Python, Indian	*Python molurus molurus*	Sri Lanka and India	do	E	15	NA	NA
Rattlesnake, Aruba island	*Crotalus unicolor*	Aruba Island (Netherland Antilles)	do	T	129	NA	NA
Rattlesnake, New Mexican ridge-nosed	*Crotalus willardi obscurus*	U.S.A. (NM), Mexico	do	T	43	17.95(c)	NA
Skink, Round Island	*Leiolopisma telfairi*	Indian Ocean: Mauritius	do	T	129	NA	NA
Snake, Atlantic salt marsh	*Nerodia fasciata taeniata*	U.S.A. (FL)	do	T	30	NA	NA
Snake, eastern indigo	*Drymarchon corais couperi*	U.S.A. (AL, FL, GA, MS, SC)	do	T	32	NA	NA
Snake, San Francisco garter	*Thamnophis sirtalis tetrataenia*	U.S.A (CA)	do	E	1	NA	NA
Tartaruga	*Podocnemis expansa*	South America: Orinoco and Amazon River basins.	do	E	3	NA	NA
Terrapin, river (=Tuntong)	*Batagur baska*	Malaysia, Bangladesh, Burma, India, Indonesia.	do	E	3	NA	NA
Tomistoma	*Tomistoma schlegelii*	Malaysia, Indonesia	do	E	15	NA	NA
Tortoise, angulated	*Geochelone yniphora*	Malagasy Republic (=Madagascar)	do	E	15	NA	NA
Tortoise, Bolson	*Gopherus flavomarginatus*	Mexico	do	E	46	NA	NA
Tortoise, desert	*Scaptochelys (=Gopherus) agassizii*	U.S.A. (UT, AZ, CA, NV); Mexico	Beaver Dam Slope, Utah.	T	103	17.95(c)	NA
Tortoise, Galapagos	*Geochelone elephantopus*	Ecuador (Galapagos Islands)	Entire	E	3	NA	NA
Tortoise, radiated	*Geochelone (=Testudo) radiata*	Malagasy Republic (=Madagascar)	do	E	3	NA	NA
Tracaja	*Podocnemis unifilis*	South America: Orinoco and Amazon River basins.	do	E	3	NA	NA
Tuatara	*Sphenodon punctatus*	New Zealand	do	E	3	NA	NA
Turtle, aquatic box	*Terrapene coahuila*	Mexico	do	E	6	NA	NA
Turtle, black softshell	*Trionyx nigricans*	Bangladesh	do	E	15	NA	NA
Turtle, Burmese peacock	*Morenia ocellata*	Burma	do	E	15	NA	NA
Turtle, Central American river	*Dermatemys mawii*	Mexico, Belize, Guatemala	do	E	129	NA	NA
Turtle, Cuatro Cienegas softshell	*Trionyx ater*	Mexico	do	E	15	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Turtle, geometric	*Psammobates geometricus* (=*Geochelone geometrica*).	South Africa	do	E	15	NA	NA
Turtle, green sea	*Chelonia mydas*	Circumglobal in tropical and temperate seas and oceans.	Wherever found except where listed as endangered below.	T	2, 42	NA	17.42(b) and Parts 220 and 227.
Do	do	do	Breeding colony populations in FL and on Pacific coast of Mexico.	E	2, 42	NA	NA
Turtle, hawksbill sea (=carey)	*Eretmochelys imbricata*	Tropical seas	Entire	E	3	17.95(c)	NA
Turtle, Indian sawback	*Kachuga tecta tecta*	India	do	E	15	NA	NA
Turtle, Indian softshell	*Trionyx gangeticus*	Pakistan, India	do	E	15	NA	NA
Turtle, Kemp's (=Atlantic) Ridley sea	*Lepidochelys kempii*	Tropical and temperate seas in Atlantic Basin.	do	E	4	NA	NA
Turtle, leatherback sea	*Dermochelys coriacea*	Tropical, temperate, and subpolar seas	do	E	3	17.95(c), 226.71	NA
Turtle, loggerhead sea	*Caretta caretta*	Circumglobal in tropical and temperate seas and oceans.	do	T	42	NA	17.42(b) and Parts 220 and 227.
Turtle, Olive (Pacific) Ridley sea	*Lepidochelys olivacea*	Tropical and temperate seas in Pacific Basin.	Wherever found except where listed as endangered below.	T	42	NA	17.42(b) and Parts 220 and 227.
Do	do	do	Breeding colony populations on Pacific coast of Mexico.	E	42	NA	NA
Turtle, peacock softshell	*Trionyx hurum*	India, Bangladesh	Entire	E	15	NA	NA
Turtle, Plymouth red-bellied	*Pseudemys* (=*Chrysemys*) *rubriventris bangsi*.	U.S.A. (MA)	do	E	90	17.95(c)	NA
Turtle, short-necked or western swamp	*Pseudemydura umbrina*	Australia	do	E	3	NA	NA
Turtle, spotted pond	*Geoclemys* (=*Damonia*) *hamiltonii*	North India, Pakistan	do	E	15	NA	NA
Turtle, three-keeled Asian	*Melanochelys* (=*Geoemyda, Nicoria*) *tricarinata*.	Central India to Bangladesh and Burma	do	E	15	NA	NA
Viper, Lar Valley	*Vipera latifii*	Iran	do	E	129	NA	NA
AMPHIBIANS							
Coqui, golden	*Eleutherodactylus jasperi*	U.S.A. (PR)	do	T	29	17.95(d)	NA

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Frog, Israel painted	*Discoglossus nigriventer*	Israel	do	E	3	NA	NA
Frog, Panamanian golden	*Atelopus varius zeteki*	Panama	do	E	15	NA	NA
Frog, Stephen Island	*Leiopelma hamiltoni*	New Zealand	do	E	3	NA	NA
Salamander, Chinese giant	*Andrias davidianus davidianus*	Western China	do	E	15	NA	NA
Salamander, desert slender	*Batrachoseps aridus*	U.S.A. (CA)	do	E	6	NA	NA
Salamander, Japanese giant	*Andrias davidianus japonicus*	Japan	do	E	15	NA	NA
Salamander, Red Hills	*Phaeognathus hubrichti*	U.S.A. (AL)	do	T	19	NA	NA
Salamander, San Marcos	*Eurycea nana*	U.S.A. (TX)	do	T	98	17.95(d)	17.43(a)
Salamander, Santa Cruz long-toed	*Ambystoma macrodactylum croceum*	U.S.A. (CA)	do	E	1	NA	NA
Salamander, Texas blind	*Typhlomolge rathbuni*	U.S.A. (TX)	do	E	1	NA	NA
Toad, African viviparous	*Nectophrynoides spp.*	Tanzania, Guinea, Ivory Coast, Cameroon, Liberia, Ethiopia.	do	E	15	NA	NA
Toad, Cameroon	*Bufo superciliaris*	Equatorial Africa	do	E	15	NA	NA
Toad, Houston	*Bufo houstonensis*	U.S.A. (TX)	do	E	2	17.95(d)	NA
Toad, Monte Verde	*Bufo periglenes*	Costa Rica	do	E	15	NA	NA
Toad, Wyoming	*Bufo hemiophrys baxteri*	U.S.A. (WY)	do	E	136	NA	NA
FISHES							
Ala Balik (trout)	*Salmo platycephalus*	Turkey	Entire	E	3	NA	NA
Ayumodoki (loach)	*Hymenophysa (=Botia) curta*	Japan	do	E	3	NA	NA
Blindcat, Mexican (catfish)	*Prietella phreatophila*	Mexico	do	E	3	NA	NA
Bonytongue, Asian	*Scleropages formosus*	Thailand, Indonesia, Malaysia	do	E	15	NA	NA
Catfish [no common name]	*Pangasius sanitwongsei*	Thailand	do	E	3	NA	NA
Catfish, giant	*Pangasianodon gigas*	do	do	E	3	NA	NA
Catfish, Yaqui	*Ictalurus pricei*	U.S.A. (AZ), Mexico	do	T	157	17.95(e)	17.44(g)
Cavefish, Alabama	*Speoplatyrhinus poulsoni*	U.S.A. (AL)	do	T	28	17.95(e)	NA
Cavefish, Ozark	*Amblyopsis rosae*	U.S.A. (AR, MO, OK)	do	T	164	NA	NA
Chub, bonytail	*Gila elegans*	U.S.A. (AZ, CA, CO, NV, UT, WY)	do	E	92	NA	NA
Chub, Borax Lake	*Gila boraxobius*	U.S.A. (OR)	do	E	124	17.95(e)	NA
Chub, Chihuahua	*Gila nigrescens*	U.S.A. (NM), Mexico (Chihuahua)	do	T	132	NA	17.44(g)
Chub, humpback	*Gila cypha*	U.S.A. (AZ, CO, UT, WY)	do	E	1	NA	NA
Chub, Hutton tui	*Gila bicolor ssp*	U.S.A. (OR)	do	T	174	NA	17.44(j)
Chub, Mohave tui	*Gila bicolor mohavensis*	U.S.A. (CA)	do	E	2	NA	NA
Chub, Owens tui	*Gila bicolor snyderi*	do	do	E	195	17.95(e)	NA
Chub, Pahranagat roundtail	*Gila robusta jordani*	U.S.A. (NV)	do	E	2	NA	NA
Chub, slender	*Hybopsis cahni*	U.S.A. (TN, VA)	do	T	28	17.95(e)	17.44(c)
Chub, spotfin	*Hybopsis monacha*	U.S.A. (AL, GA, NC, TN, VA)	do	T	28	17.95(e)	17.44(c)
Chub, Yaqui	*Gila purpurea*	U.S.A. (AZ), Mexico	do	E	157	17.95(e)	NA
Cicek (minnow)	*Acanthorutilus handlirschi*	Turkey	do	E	3	NA	NA
Cui-ui	*Chasmistes cujus*	U.S.A. (NV)	do	E	1	NA	NA
Dace, Ash Meadows speckled	*Rhinichthys osculus nevadensis*	do	do	E	117E, 127E, 130	17.95(e)	NA
Dace, Foskett speckled	*Rhinichthys osculus ssp*	U.S.A. (OR)	do	T	174	NA	17.44(j)
Dace, Kendall Warm Springs	*Rhinichthys osculus thermalis*	U.S.A. (WY)	do	E	2	NA	NA
Dace, Moapa	*Moapa coriacea*	U.S.A. (NV)	do	E	1	NA	NA
Darter, amber	*Percina antesella*	U.S.A. (GA, TN)	do	E	196	17.95(e)	NA
Darter, bayou	*Etheostoma rubrum*	U.S.A. (MS)	do	T	10	NA	17.44(b)

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Darter, fountain	*Etheostoma fonticola*	U.S.A. (TX)	do	E	2	17.95(e)	NA
Darter, leopard	*Percina pantherina*	U.S.A. (AR, OK)	do	T	31	17.95(e)	17.44(d)
Darter, Maryland	*Etheostoma sellare*	U.S.A. (MD)	do	E	1	NA	NA
Darter, Niangua	*Etheostoma nianguae*	U.S.A. (MO)	do	T	185	17.95(e)	17.44(k)
Darter, Okaloosa	*Etheostoma okaloosae*	U.S.A. (FL)	do	E	6	NA	NA
Darter, slackwater	*Etheostoma boschungi*	U.S.A. (AL, TN)	do	T	28	17.95(e)	17.44(c)
Darter, snail	*Percina tanasi*	U.S.A. (AL, GA, TN)	do	T	12, 150	NA	NA
Darter, watercress	*Etheostoma nuchale*	U.S.A. (AL)	do	E	2	NA	NA
Gambusia, Big Bend	*Gambusia gaigei*	U.S.A. (TX)	do	E	1	NA	NA
Gambusia, Clear Creek	*Gambusia heterochir*	do	do	E	1	NA	NA
Gambusia, Amistad	*Gambusia amistadensis*	do	do	E	93	NA	NA
Gambusia, Pecos	*Gambusia nobilis*	U.S.A. (NM, TX)	do	E	2	NA	NA
Gambusia, San Marcos	*Gambusia georgei*	U.S.A. (TX)	do	E	98	17.95(e)	NA
Killfish, Pahrump	*Empetrichthys latos*	U.S.A. (NV)	do	E	1	NA	NA
Logperch, Conasauga	*Percina jenkinsi*	U.S.A. (GA, TN)	do	E	196	17.95(e)	NA
Madtom, Scioto	*Noturus trautmani*	U.S.A. (OH)	do	E	10	NA	NA
Madtom, Smoky	*Noturus baileyi*	U.S.A. (TN)	do	E	163	17.95(e)	NA
Madtom, yellowfin	*Noturus flavipinnis*	U.S.A. (GA, TN, VA)	do	T	28	17.95(e)	17.44(c)
Nekogigi (catfish)	*Coreobagrus ichikawai*	Japan	do	E	3	NA	NA
Pupfish, Ash Meadows Amargosa	*Cyprinodon nevadensis mionectes*	U.S.A. (NV)	do	E	117E, 127E, 130	17.95(e)	NA
Pupfish, Comanche Springs	*Cyprinodon elegans*	U.S.A. (TX)	do	E	1	NA	NA
Pupfish, Devils Hole	*Cyprinodon diabolis*	U.S.A. (NV)	do	E	1	NA	NA
Pupfish, Leon Springs	*Cyprinodon bovinus*	U.S.A. (TX)	do	E	102	17.95(e)	NA
Pupfish, Owens	*Cyprinodon radiosus*	U.S.A. (CA)	do	E	1	NA	NA
Pupfish, Warm Springs	*Cyprinodon nevadensis pectoralis*	U.S.A. (NV)	do	E	2	NA	NA
Shiner, beautiful	*Notropis formosus*	U.S.A. (AZ, NM), Mexico	do	T	157	17.95(e)	17.44(g)
Spinedace, Big Spring	*Lepidomeda mollispinis pratensis*	U.S.A. (NV)	do	T	173	17.95(e)	17.44(i)
Spinedace, White River	*Lepidomeda albivallis*	do	do	E	203	17.95(e)	NA
Springfish, Hiko White River	*Crenichthys baileyi grandis*	do	do	E	206	17.95(e)	NA
Springfish, White River	*Crenichthys baileyi baileyi*	do	do	E	206	17.95(e)	NA
Squawfish, Colorado	*Ptychocheilus lucius*	U.S.A. (AZ, CA, CO, NM, NV, UT, WY), Mexico	Entire, except Salt and Verde R. drainages, AZ.	E	1, 193	NA	NA
Do	do	do	Salt and Verde R. drainages, AZ.	XN	193	NA	17.84(b)
Stickleback, unarmored threespine	*Gasterosteus aculeatus williamsoni*	U.S.A. (CA)	do	E	2	NA	NA
Sturgeon, shortnose	*Acipenser brevirostrum*	U.S.A. and Canada (Atlantic Coast)	do	E	1	NA	NA
Sucker, Modoc	*Catostomus microps*	U.S.A. (CA)	do	E	184	17.95(e)	NA
Sucker, Warner	*Catostomus warnerensis*	U.S.A. (OR)	do	T	205	17.95(e)	17.44(l)
Tango, Miyako (Tokyo bitterling)	*Tanakia tanago*	Japan	do	E	3	NA	NA

Temoleh, Ikan (minnow)	*Probarbus jullieni*	Thailand, Cambodia, Vietnam, Malaysia, Laos.	do	E	15	NA	NA
Topminnow, Gila	*Poeciliopsis occidentalis*	U.S.A. (AZ, NM), Mexico	do	E	1	NA	NA
Totoaba (seatrout or weakfish)	*Cynoscion macdonaldi*	Mexico (Gulf of California)	do	E	45	NA	NA
Trout, Apache	*Salmo apache*	U.S.A. (AZ)	do	T	1, 8	NA	17.44(a)
Trout, Gila	*Salmo gilae*	U.S.A. (AZ, NM)	do	E	1	NA	NA
Trout, greenback cutthroat	*Salmo clarki stomias*	U.S.A. (CO)	do	T	1, 36	NA	17.44(f)
Trout, Lahontan cutthroat	*Salmo clarki henshawi*	U.S.A. (CA, NV)	do	T	2, 8	NA	17.44(a)
Trout, Little Kern golden	*Salmo aguabonita whitei*	U.S.A. (CA)	do	T	37	17.95(e)	17.44(e)
Trout, Paiute cutthroat	*Salmo clarki seleniris*	do	do	T	1, 8	NA	17.44(a)
Woundfin	*Plagopterus argentissimus*	U.S.A. (AZ, NV, UT)	Entire, except Gila R. drainage, AZ, NM.	E	2, 193	NA	NA
Do	do	do	Gila R. drainage AZ, NM.	XN	193	NA	17.84(b)
SNAILS							
Snail, Chittenango ovate amber	*Succinea chittenangoensis*	U.S.A. (NY)	NA	T	41	NA	NA
Snail, flat-spired three-toothed	*Triodopsis platysayoides*	U.S.A. (WV)	NA	T	41	NA	NA
Snail, Iowa Pleistocene	*Discus macclintocki*	U.S.A. (IA)	NA	E	41	NA	NA
Snail, Manus Island tree	*Papustyla pulcherrima*	Pacific Ocean: Admiralty Is. (Manus Is.)	NA	E	3	NA	NA
Snail, noonday	*Mesodon clarki nantahala*	U.S.A. (NC)	NA	T	41	NA	NA
Snail, Oahu tree	*Achatinella* spp. (all species)	U.S.A. (HI)	NA	E	108, 112	NA	NA
Snail, painted snake coiled forest	*Anguispira picta*	U.S.A. (TN)	NA	T	41	NA	NA
Snail, Stock Island	*Orthalicus reses*	U.S.A. (FL)	NA	T	41	NA	NA
Snail, Virginia fringed mountain	*Polygyriscus virginianus*	U.S.A. (VA)	NA	E	41	NA	NA
CLAMS							
Pearly mussel, Alabama lamp	*Lampsilis virescens*	U.S.A. (AL, TN)	NA	E	15	NA	NA
Pearly mussel, Appalachian monkeyface	*Quadrula sparsa*	U.S.A. (TN, VA)	NA	E	15	NA	NA
Pearly mussel, birdwing	*Conradilla caelata*	do	NA	E	15	NA	NA
Pearly mussel, Cumberland bean	*Villosa (=Micromya) trabalis*	U.S.A. (KY, TN)	NA	E	15	NA	NA
Pearly mussel, Cumberland monkeyface	*Quadrula intermedia*	U.S.A. (AL, TN, VA)	NA	E	15	NA	NA
Pearly mussel, Curtis'	*Epioblasma (=Dysnomia) florentina curtisi*	U.S.A. (MO)	NA	E	15	NA	NA
Pearly mussel, dromedary	*Dromus dromas*	U.S.A. (TN, VA)	NA	E	15	NA	NA
Pearly mussel, green-blossom	*Epioblasma (=Dysnomia) torulosa gubernaculum*	do	NA	E	15	NA	NA
Pearly mussel, Higgins' eye	*Lampsilis higginsi*	U.S.A. (IL, IA, MN, MO, NE, WI)	NA	E	15	NA	NA
Pearly mussel, Nicklin's	*Megalonaias nickliniana*	Mexico	NA	E	15	NA	NA
Pearly mussel, orange-footed	*Plethobasus cooperianus*	U.S.A. (AL, IN, IA, KY, OH, PA, TN)	NA	E	15	NA	NA
Pearly mussel, pale lilliput	*Toxolasma (=Carunculina) cylindrellus*	U.S.A. (AL, TN)	NA	E	15	NA	NA
Pearly mussel, pink mucket	*Lampsilis orbiculata*	U.S.A. (AL, IL, IN, KY, MO, OH, PA, TN, WV).	NA	E	15	NA	NA
Pearly mussel, Tampico	*Cyrtonaias tampicoensis tecomatensis*	Mexico	NA	E	15	NA	NA
Pearly mussel, tubercled-blossom	*Epioblasma (=Dysnomia) torulosa torulosa*	U.S.A. (IL, IN, KY, TN, WV)	NA	E	15	NA	NA
Pearly mussel, turgid-blossom	*Epioblasma (=Dysnomia) turgidula*	U.S.A. (AL, TN)	NA	E	15	NA	NA

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Pearly mussel, white cat's paw	*Epioblasma (=Dysnomia) sulcata delicata.*	U.S.A. (IN, MI, OH)	NA	E	15	NA	NA
Pearly mussel, white wartyback	*Plethobasus cicatricosus*	U.S.A. (AL, IN, TN)	NA	E	15	NA	NA
Pearly mussel, yellow-blossom	*Epioblasma (=Dysnomia) florentina florentina.*	U.S.A. (AL, TN)	NA	E	15	NA	NA
Pigtoe, fine-rayed	*Fusconaia cuneolus*	U.S.A. (AL, TN, VA)	NA	E	15	NA	NA
Pigtoe, rough	*Pleurobema plenum*	U.S.A. (IN, KY, TN, VA)	NA	E	15	NA	NA
Pigtoe, shiny	*Fusconaia edgariana*	U.S.A. (AL, TN, VA)	NA	E	15	NA	NA
Pocketbook, fat	*Potamilus (=Proptera) capax*	U.S.A. (AR, IN, MO, OH)	NA	E	15	NA	NA
Riffle shell, tan	*Epioblasma walkeri*	U.S.A. (KY, TN, VA)	NA	E	27	NA	NA
Spiny mussel, Tar River	*Elliptio (=Canthyria) steinstansana*	U.S.A. (NC)	NA	E	188	NA	NA
CRUSTACEANS							
Amphipod, Hay's Spring	*Stygobromus hayi*	U.S.A. (DC)	NA	E	115	NA	NA
Isopod, Madison Cave	*Antrolana lira*	U.S.A. (VA)	NA	T	123	NA	17.46(a)
Isopod, Socorro	*Thermosphaeroma (=Exosphaeroma) thermophilus.*	U.S.A. (NM)	NA	E	36	NA	NA
Shrimp, Kentucky cave	*Palaemonias ganteri*	U.S.A. (KY)	NA	E	135	17.95(h)	NA
INSECTS							
Beetle, delta green ground	*Elaphrus viridis*	U.S.A. (CA)	NA	T	100	17.95(i)	NA
Beetle, valley elderberry longhorn	*Desmocerus californicus dimorphus*	do	NA	T	99	17.95(i)	NA
Butterfly, El Segundo blue	*Euphilotes (=Shijimiaeoides) battoides allyni.*	do	NA	E	14	NA	NA
Butterfly, Lange's metalmark	*Apodemia mormo langei*	do	NA	E	14	NA	NA
Butterfly, lotis blue	*Lycaeides argyrognomon lotis*	do	NA	E	14	NA	NA
Butterfly, mission blue	*Icaricia icarioides missionensis*	do	NA	E	14	NA	NA
Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	U.S.A. (OR, WA)	NA	T	95	17.95(i)	NA
Butterfly, Palos Verdes blue	*Glaucopsyche lygdamus palosverdesensis.*	U.S.A. (CA)	NA	E	96	17.95(i)	NA
Butterfly, San Bruno elfin	*Callophrys mossii bayensis*	do	NA	E	14	NA	NA
Butterfly, Schaus swallowtail	*Heraclides (Papilio) aristodemus ponceanus.*	U.S.A. (FL)	NA	E	13,159	NA	NA
Butterfly, Smith's blue	*Euphilotes (=Shijimiaeoides) enoptes smithi.*	U.S.A. (CA)	NA	E	14	NA	NA
Moth, Kern primrose sphinx	*Euproserpinus euterpe*	do	NA	T	91	NA	NA
Naucorid, Ash Meadows	*Ambrysus amargosus*	U.S.A. (NV)	NA	T	181	17.95(i)	NA

EDITORIAL NOTE: For "When listed" citations, see list following; for symbols in "When listed" see below:
#—Indicates FR where species was delisted; relisting of the species is indicated by subsequent number(s).
E—Indicates Emergency rule publication (see FR document for effective dates); subsequent number(s) indicate FR final rule, if applicable under "When listed".

1—32 FR 4001; March 11, 1967.
2—35 FR 16047; October 13, 1970.
3—35 FR 8495; June 2, 1970.
4—35 FR 18320; December 2, 1970.
5—37 FR 6476; March 30, 1972.
6—38 FR 14678; June 4, 1973.
7—39 FR 44991; December 30, 1974.
8—40 FR 29864; July 16, 1975.
9—40 FR 31736; July 28, 1975.
10—40 FR 44151; September 25, 1975.
11—40 FR 44418; September 26, 1975.
12—40 FR 47506; October 9, 1975.
13—41 FR 17740; April 28, 1976.
14—41 FR 22044; June 1, 1976.
15—41 FR 24064; June 14, 1976.
16—41 FR 45993; October 19, 1976.
17—41 FR 51021; November 19, 1976.
18—41 FR 51612; November 23, 1976.
19—41 FR 53034; December 3, 1976.
20—42 FR 2076; January 10, 1977.
21—42 FR 2968, January 14, 1977.
23—42 FR 28137; June 2, 1977.
24—42 FR 28545; June 3, 1977.
25—42 FR 37373; July 21, 1977.
26—42 FR 40685; August 11, 1977.
27—42 FR 42353; August 23, 1977.
28—42 FR 45528; September 9, 1977.
29—42 FR 58755; November 11, 1977.
30—42 FR 60745; November 29, 1977.
31—43 FR 3715; January 27, 1978.
32—43 FR 4028; January 31, 1978.
33—43 FR 4621; February 3, 1978.
34—43 FR 6233; February 14, 1978.
35—43 FR 9612; March 9, 1978.
36—43 FR 12691; March 27, 1978.
37—43 FR 15429; April 13, 1978.
38—43 FR 16345; April 18, 1978.
40—43 FR 20504; May 12, 1978.
41—43 FR 28932; July 3, 1978.
42—43 FR 32808; July 28, 1978.
43—43 FR 34479; August 4, 1978.
45—44 FR 21289; April 10, 1979.
46—44 FR 23064; April 17, 1979.
48—44 FR 29480; May 21, 1979.
50—44 FR 37126; June 25, 1979.
51—44 FR 37132; June 25, 1979.
52—44 FR 42911; July 20, 1979.
54—44 FR 49220; August 21, 1979.
55—44 FR 54007; September 17, 1979.
60—44 FR 59084; October 12, 1979.
85—44 FR 69208; November 30, 1979.
86—44 FR 70677; December 7, 1979.
87—44 FR 75076; December 18, 1979.
88—45 FR 18010; March 20, 1980.
90—45 FR 21833; April 2, 1980.
91—45 FR 24090; April 8, 1980.
92—45 FR 27713; April 23, 1980.
93—45 FR 28722; April 30, 1980.
94—45 FR 35821; May 28, 1980.
95—45 FR 44935; July 2, 1980.
96—45 FR 44939; July 2, 1980.
97—45 FR 47352; July 14, 1980.
98—45 FR 47355; July 14, 1980.
99—45 FR 52803; August 8, 1980.
100—45 FR 52807; August 8, 1980.
102—45 FR 54678; August 15, 1980.
103—45 FR 55654; August 20, 1980.
105—45 FR 63812; September 25, 1980.
106—45 FR 65132; October 1, 1980.
108—46 FR 3178; January 13, 1981.
111—46 FR 11665; February 10, 1981.
112—46 FR 40025; August 6, 1981.
113—46 FR 40664; August 10, 1981.
114—47 FR 4204; January 28, 1982.
115—47 FR 5425; February 5, 1982.
117—47 FR 19995; May 10, 1982.
119—47 FR 31670; July 21, 1982.
123—47 FR 43701; October 4, 1982.
124—47 FR 43962; October 5, 1982.
125—47 FR 46093; October 15, 1982.
127—48 FR 612; January 5, 1983.
128—48 FR 1726; January 14, 1983.
129—48 FR 28464; June 22, 1983.
130—48 FR 40184; September 2, 1983.
131—48 FR 43043; September 21, 1983.
132—48 FR 46057; October 11, 1983.
134—48 FR 46336; October 12, 1983.
135—48 FR 46341; October 12, 1983.
136—48 FR 49249; October 25, 1983.
137—49 FR 1058; January 9, 1984.
138—49 FR 1994; January 17, 1984.
139—49 FR 2783; January 23, 1984.
142—49 FR 7335; February 28, 1984.
143—49 FR 7394; February 29, 1984.
144—49 FR 7398; February 29, 1984.
145—49 FR 10526; March 20, 1984.
146—49 FR 14356; April 11, 1984.
149—49 FR 22334; May 29, 1984.
150—49 FR 27514; July 5, 1984.
156—49 FR 33885; August 27, 1984.
157—49 FR 34494; August 31, 1984.
159—49 FR 34504; August 31, 1984.
160—49 FR 34510; August 31, 1984.
161—49 FR 35954; September 13, 1984.
163—49 FR 43069; October 26, 1984.
164—49 FR 43969; November 1, 1984.
166—49 FR 45163; November 15, 1984.
168—49 FR 49639; December 21, 1984.
169—50 FR 1056; January 9, 1985.
170—50 FR 4226; January 30, 1985.
171—50 FR 4945; February 4, 1985.
173—50 FR 12302; March 28, 1985.
174—50 FR 12305; March 28, 1985.
181—50 FR 20785; May 20, 1985.
182—50 FR 21792; May 28, 1985.
183—50 FR 23884; June 6, 1985.
184—50 FR 24530; June 11, 1985.
185—50 FR 24653; June 12, 1985.
186—50 FR 25678; June 20, 1985.
188—50 FR 26575; June 27, 1985.
189—50 FR 27002; July 1, 1985.
193—50 FR 30194; July 24, 1985.
195—50 FR 31596; August 5, 1985.
196—50 FR 31603; August 5, 1985.
203—50 FR 37198; September 12, 1985.
205—50 FR 39117; September 27, 1985.
206—50 FR 39123; September 27, 1985.

[48 FR 34182, July 27, 1983; 48 FR 34961, Aug. 2, 1983, as amended at 48 FR 39943, Sept. 2, 1983; 48 FR 46337, Oct. 12, 1983; 48 FR 52743, Nov. 22, 1983; 49 FR 1058, Jan. 9, 1984; 49 FR 33892, Aug. 27, 1984]

EDITORIAL NOTE: For additional FEDERAL REGISTER citations affecting the table in § 17.11(h), see the listing which follows the table.

§ 17.12 Endangered and threatened plants.

(a) The list in this section contains the names of all species of plants which have been determined by the Services to be Endangered or Threatened. It also contains the names of species of plants treated as Endangered or Threatened because they are sufficiently similar in appearance to Endangered or Threatened species (see § 17.50 *et seq.*).

(b) The columns entitled "Scientific name" and "Common name" define the species of plant within the meaning of the Act. Although common names are included, they cannot be relied upon for identification of any specimen, since they may vary greatly in local usage. The Services shall use the most recently accepted scientific name. In cases in which confusion might arise, a synonym(s) will be provided in parentheses. The Services shall rely to the extent practicable on the *International Code of Botanical Nomenclature.*

(c) In the "Status" column the following symbols are used: "E" for Endangered, "T" for Threatened, and "E [or T] (S/A)" for similarity of appearance species.

(d) The other data in the list are nonregulatory in nature and are provided for the information of the reader. In the annual revision and compilation of this title, the following information may be amended without public notice: the spelling of species' names, historical range, footnotes, references to certain other applicable portions of this title, synonyms, and more current names. In any of these revised entries, neither the species, as defined in paragraph (b) of this section, nor its status may be changed without following the procedures of Part 424 of this title.

(e) The "Historic range" indicates the known general distribution of the species or subspecies as reported in the current scientific literature. The present distribution may be greatly reduced from this historic range. This column does not imply any limitation on the application of the prohibitions in the Act or implementing rules. Such prohibitions apply to all individuals of the plant species, wherever found.

(f)(1) A footnote to the FEDERAL REGISTER publication(s) listing or reclassifying a species is indicated under the column "When listed." Footnote numbers to §§ 17.11 and 17.12 are in the same numerical sequence, since plants and animals may be listed in the same FEDERAL REGISTER document. That document, at least since 1973, includes a statement indicating the basis for the listing, as well as the effective date(s) of said listing.

(2) The "Special rules" and "Critical habitat" columns provide a cross reference to other sections in Parts 17, 222, 226, or 227. The "Special rules" column will also be used to cite the special rules which describe experimental populations and determine if they are essential or nonessential. Separate listings will be made for experimental populations, and the status column will include the following symbols: "XE" for an essential experimental population and "XN" for a nonessential experimental population. The term "NA" (not applicable) appearing in either of these two columns indicates that there are no special rules and/or critical habitat for that particular species. However, all other appropriate rules in Parts 17, 217 through 227, and 402 still apply to that species. In addition, there may be other rules in this title that relate to such plants, e.g., port-of-entry requirements. It is not intended that the references in the "Special rules" column list all the regulations of the two Services which might apply to the species or to the regulations of other Federal agencies or State or local governments.

(g) The listing of a particular taxon includes all lower taxonomic units (see § 17.11(g) for examples).

(h) The "List of Endangered and Threatened Plants" is provided below:

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Agavaceae—Agave family:						
Agave arizonica	Arizona agave	U.S.A. (AZ)	E	147	NA	NA
Alismataceae—Water-plantain family:						
Sagittaria fasciculata	Bunched arrowhead	U.S.A. (NC, SC)	E	53	NA	NA
Apiaceae—Parsley family:						
Eryngium constancei	Loch Lomond coyote-thistle	U.S.A. (CA)	E	194E	NA	NA
Asteraceae—Aster family:						
Bidens cuneata	Cuneate bidens	U.S.A. (HI)	E	141	NA	NA
Dyssodia tephroleuca	Ashy dogweed	U.S.A. (TX)	E	152	NA	NA
Echinacea tennesseensis	Tennessee purple coneflower	U.S.A. (TN)	E	49	NA	NA
Enceliopsis nudicaulis var. corrugata	Ash Meadows sunray	U.S.A. (NV)	T	181	17.96(a)	NA
Erigeron maguirei var. maguirei	Maguire daisy	U.S.A. (UT)	E	202	NA	NA
Erigeron rhizomatus	Rhizome fleabane	U.S.A. (NM)	T	177	NA	NA
Grindelia fraxinopratensis	Ash Meadows gumplant	U.S.A. (CA, NV)	T	181	17.96(a)	NA
Lipochaeta venosa	None	U.S.A. (HI)	E	73	NA	NA
Pityopsis ruthii (=*Heterotheca ruthii*, =*Chrysopsis ruthii*)	Ruth's golden aster	U.S.A. (TN)	E	191	NA	NA
Senecio franciscanus	San Francisco Peaks groundsel	U.S.A. (AZ)	T	137	17.96(a)	NA
Solidago shortii	Short's goldenrod	U.S.A. (KY)	E	201	NA	NA
Solidago spithamaea	Blue Ridge goldenrod	U.S.A. (NC, TN)	T	175	NA	NA
Stephanomeria malheurensis	Malheur wire-lettuce	U.S.A. (OR)	E	126	17.96(a)	NA
Townsendia aprica	Last Chance townsendia	U.S.A. (UT)	T	200	NA	NA
Berberidaceae—Barberry family:						
Mahonia sonnei (=*Berberis s.*)	Truckee barberry	U.S.A. (CA)	E	76	NA	NA
Betulaceae—Birch family:						
Betula uber	Virginia round-leaf birch	U.S.A. (VA)	E	39	NA	NA
Boraginaceae—Borage family:						
Amsinckia grandiflora	Large-flowered fiddleneck	U.S.A. (CA)	E	179	17.96(a)	NA
Brassicaceae—Mustard family:						
Arabis mcdonaldiana	McDonald's rock-cress	U.S.A. (CA)	E	44	NA	NA
Erysimum capitatum var. angustatum	Contra Costa wallflower	do	E	39	17.96(a)	NA
Thelypodium stenopetalum	Slender-petaled mustard	do	E	158	NA	NA
Buxaceae—Boxwood family:						
Buxus vahlii	Vahl's boxwood	U.S.A. (PR)	E	197	NA	NA
Cactaceae—Cactus family:						
Ancistrocactus tobuschii (=*Echinocactus t.*, *Mammillaria t.*)	Tobusch fishhook cactus	U.S.A. (TX)	E	80	NA	NA
Cereus robinii	Key tree-cactus	U.S.A. (FL), Cuba	E	153	NA	NA
Coryphantha minima (=*C. nellieae*, *Escobaria n.*, *Mammillaria n.*)	Nellie cory cactus	U.S.A. (TX)	E	81	NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Coryphantha ramillosa	Bunched cory cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	NA	NA
Coryphantha sneedii var. *leei* (=*Escobaria l., Mammillaria l.*)	Lee pincushion cactus	U.S.A. (NM)	T	61	NA	NA
Coryphantha sneedii var. *sneedii* (=*Escobaria s., Mammillaria s.*)	Sneed pincushion cactus	U.S.A. (TX, NM)	E	82	NA	NA
Echinocactus horizonthalonius var. *nicholii*	Nichol's Turk's head cactus	U.S.A. (AZ)	E	71	NA	NA
Echinocereus engelmannii var. *purpureus*	Purple-spined hedgehog cactus	U.S.A. (UT)	E	58	NA	NA
Echinocereus fendleri var. *kuenzleri* (=*E. kuenzleri, E. hempelii* of authors, not Fobe).	Kuenzler hedgehog cactus	U.S.A. (NM)	E	70	NA	NA
Echinocereus lloydii (=*E. roetteri* var. *l.*)	Lloyd's hedgehog cactus	U.S.A. (TX)	E	67	NA	NA
Echinocereus reichenbachii var. *albertii* (=*E. melanocentrus*)	Black lace cactus	do	E	68	NA	NA
Echinocereus triglochidiatus var. *arizonicus* (=*E. arizonicus*)	Arizona hedgehog cactus	U.S.A. (AZ)	E	62	NA	NA
Echinocereus triglochidiatus var. *inermis* (=*E. coccineus* var. *i., E. phoeniceus* var. *i.*).	Spineless hedgehog cactus	U.S.A. (CO, UT)	E	83	NA	NA
Echinocereus viridiflorus var. *davisii* (=*E. davisii*)	Davis' green pitaya	U.S.A. (TX)	E	81	NA	NA
Neolloydia mariposensis (=*Echinocactus m., Echinomastus m.*)	Lloyd's Mariposa cactus	U.S.A. (TX), Mexico (Coahuila).	T	77	NA	NA
Pediocactus bradyi (=*Toumeya b.*)	Brady pincushion cactus	U.S.A. (AZ)	E	63	NA	NA
Pediocactus knowltonii (=*P. bradyi* var. *k. Toumeya k.*)	Knowlton cactus	U.S.A. (NM, CO)	E	72	NA	NA
Pediocactus peeblesianus var. *peeblesianus* (=*Echinocactus p., Navajoa p., Toumeya p., Utahia p.*).	Peebles Navajo cactus	U.S.A. (AZ)	E	69	NA	NA
Pediocactus sileri (=*Echinocactus s., Utahia s.*)	Siler pincushion cactus	U.S.A. (AZ, UT)	E	64	NA	NA
Sclerocactus glaucus (=*Echinocactus g., E. subglaucus, E. whipplei* var. *g., Pediocactus g., S. franklinii, S. whipplei* var. *g.*).	Uinta Basin hookless cactus	U.S.A. (CO, UT)	T	59	NA	NA
Sclerocactus mesae-verdae (=*Coloradoa m., Echinocactus m., Pediocactus m.*).	Mesa Verde cactus	U.S.A. (CO, NM)	T	75	NA	NA
Sclerocactus wrightiae (=*Pediocactus w.*)	Wright fishhook cactus	U.S.A. (UT)	E	58	NA	NA
Caryophyllaceae—Pink family:						
Schiedea adamantis	Diamond Head schiedea	U.S.A. (HI)	E	141	NA	NA
Chenopodiaceae—Goosefoot family:						
Nitrophila mohavensis	Amargosa niterwort	U.S.A. (CA)	E	181	17.96(a)	NA
Cistaceae—Rockrose family:						
Hudsonia montana	Mountain golden heather	U.S.A. (NC)	T	107	17.96(a)	NA
Crassulaceae—Stonecrop family:						
Dudleya traskiae	Santa Barbara Island liveforever	U.S.A. (CA)	E	39	NA	NA
Cupressaceae—Cypress family:						
Fitzroya cupressoides	Chilean false larch (=alerce)	Chile, Argentina	T	79	NA	NA
Cyperaceae—Sedge family:						
Carex specuicola	None	U.S.A. (AZ)	T	178	17.96(a)	NA

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Ericaceae—Heath family:						
Arctostaphylos pungens var. *ravenii* (=*A. hookeri* ssp. *ravenii*)	Presidio (=Raven's) manzanita	U.S.A. (CA)	E	65	NA	NA
Rhododendron chapmanii	Chapman rhododendron	U.S.A. (FL)	E	47	NA	NA
Euphorbiaceae—Spurge family:						
Euphorbia (=*Chamaesyce*) *deltoidea* ssp. *deltoidea*	Spurge	U.S.A. (FL)	E	192	NA	NA
Euphorbia (=*Chamaesyce*) *garberi*	None	do	T	192	NA	NA
Euphorbia skottsbergii var. *kalaeloana*	Ewa Plains 'akoko	U.S.A. (HI)	E	120	NA	NA
Jatropha costaricensis	Costa Rican jatropha	Costa Rica	E	154	NA	NA
Fabaceae—Pea family:						
Amorpha crenulata	Crenulate lead-plant	U.S.A. (FL)	E	192	NA	NA
Astragalus humillimus	Mancos milk-vetch	U.S.A. (CO, NM)	E	187	NA	NA
Astragalus perianus	Rydberg milk-vetch	U.S.A. (UT)	T	39	NA	NA
Astragalus phoenix	Ash Meadows milk-vetch	U.S.A. (NV)	T	181	17.96(a)	NA
Baptisia arachnifera	Hairy rattleweed	U.S.A. (GA)	E	39	NA	NA
Galactia smallii	Small's milkpea	U.S.A. (FL)	E	192	NA	NA
Lotus dendroideus ssp. *traskiae* (=*L. scoparius* ssp. *t.*)	San Clemente Island broom	U.S.A. (CA)	E	26	NA	NA
Vicia menziesii	Hawaiian vetch	U.S.A. (HI)	E	39	NA	NA
Frankeniaceae—Frankenia family:						
Frankenia johnstonii	Johnston's frankenia	U.S.A. (TX), Mexico (Nuevo Leon).	E	155	NA	NA
Gentianaceae—Gentian family:						
Centaurium namophilum	Spring-loving centaury	U.S.A. (CA, NV)	T	181	17.96(a)	NA
Hydrophyllaceae—Waterleaf family:						
Phacelia argillacea	Clay phacelia	U.S.A. (UT)	E	44	NA	NA
Phacelia formosula	North Park phacelia	U.S.A. (CO)	E	121	NA	NA
Lamiaceae—Mint family:						
Acanthomintha obovata ssp. *duttonii*	San Mateo thornmint	U.S.A. (CA)	E	204	NA	NA
Dicerandra immaculata	Lakela's mint	U.S.A. (FL)	E	180	NA	NA
Haplostachys haplostachya var. *angustifolia*	None	U.S.A. (HI)	E	73	NA	NA
Hedeoma apiculatum	McKittrick pennyroyal	U.S.A. (TX, NM)	T	118	17.96(a)	NA
Hedeoma todsenii	Todsen's pennyroyal	U.S.A. (NM)	E	110, 112	17.96(a)	NA
Pogogyne abramsii	San Diego mesa mint	U.S.A. (CA)	E	44	NA	NA
Stenogyne angustifolia var. *angustifolia*	None	U.S.A. (HI)	E	73	NA	NA
Liliaceae—Lily family:						
Harperocallis flava	Harper's beauty	U.S.A. (FL)	E	57	NA	NA
Trillium persistens	Persistent trillium	U.S.A. (GA, SC)	E	39	NA	NA
Loasaceae—Loasa family:						
Mentzelia leucophylla	Ash Meadows blazing star	U.S.A. (NV)	T	181	17.96(a)	NA
Malvaceae—Mallow family:						
Callirhoe scabriuscula	Texas poppy-mallow	U.S.A. (TX)	E	109, 112	NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Kokia cookei	Cooke's kokio	U.S.A. (HI)	E	74	NA	NA
Kokia drynarioides	Koki'o (=hau-hele'ula or Hawaii tree cotton).	......do	E	167	17.96(a)	NA
Malacothamnus clementinus	San Clemente Island bush-mallow	U.S.A. (CA)	E	26	NA	NA
Sidalcea pedata	Pedate checker-mallow	......do	E	158	NA	NA
Nyctaginaceae—Four-o'clock family:						
Mirabilis macfarlanei	MacFarlane's four-o'clock	U.S.A. (ID, OR)	E	66	NA	NA
Onagraceae—Evening-primrose family:						
Camissonia benitensis	San Benito evening-primrose	U.S.A. (CA)	T	172	NA	NA
Oenothera avita ssp. *eurekensis*	Eureka Valley evening-primrose	......do	E	39	NA	NA
Oenothera deltoides ssp. *howellii*	Antioch Dunes evening-primrose	......do	E	39	17.96(a)	NA
Orchidaceae—Orchid family:						
Isotria medeoloides	Small whorled pogonia	U.S.A. (CT, IL, MA, MD, ME, MI, MO, NC, NH, NJ, NY, PA, RI, SC, VA, VT), Canada (Ont.).	E	122	NA	NA
Spiranthes parksii	Navasota ladies'-tresses	U.S.A. (TX)	E	116	NA	NA
Papaveraceae—Poppy family:						
Arctomecon humilis	Dwarf bear-poppy	U.S.A. (UT)	E	78	NA	NA
Pinaceae—Pine family:						
Abies guatemalensis	Guatemalan fir (=pinabete)	Mexico, Guatemala, Honduras, El Salvador.	T	84	NA	NA
Poaceae—Grass family:						
Tuctoria mucronata (=*Orcuttia m.*)	Solano grass	U.S.A. (CA)	E	44	NA	NA
Panicum carteri	Carter's panicgrass	U.S.A. (HI)	E	133	17.96(a)	NA
Swallenia alexandrae	Eureka Dune grass	U.S.A. (CA)	E	39	NA	NA
Zizania texana	Texas wild-rice	U.S.A. (TX)	E	39	17.96(a)	NA
Polygalaceae—Milkwort family:						
Polygala smallii	Tiny polygala	U.S.A. (FL)	E	192	NA	NA
Polygonaceae—Buckwheat family:						
Eriogonum gypsophilum	Gypsum wild-buckwheat	U.S.A. (NM)	T	110, 112	17.96(a)	NA
Eriogonum pelinophilum	Clay-loving wild-buckwheat	U.S.A. (CO)	E	151	17.96(a)	NA
Primulaceae—Primrose family:						
Primula maguirei	Maguire primrose	U.S.A. (UT)	T	199	NA	NA

Ranunculaceae—Buttercup family:						
Aconitum noveboracense	Northern wild monkshood	U.S.A. (IA, NY, OH, WI)	T	33	NA	NA
Delphinium kinkiense	San Clemente Island larkspur	U.S.A. (CA)	E	26	NA	NA
Rhamnaceae—Buckhorn family:						
Gouania hillebrandii	None	U.S.A. (HI)	E	165	17.96(a)	NA
Rosaceae—Rose family:						
Cowania subintegra	Arizona cliffrose	U.S.A. (AZ)	E	148	NA	NA
Ivesia eremica	Ash Meadows ivesia	U.S.A. (NV)	T	181	17.96(a)	NA
Potentilla robbinsiana	Robbins' cinquefoil	U.S.A. (NH, VT)	E	104	17.96(a)	NA
Rubiaceae—Coffee family:						
Gardenia brighamii	Na'u (Hawaiian gardenia)	U.S.A. (HI)	E	198	NA	NA
Sarraceniaceae—Pitcher plant family:						
Sarracenia oreophila	Green pitcher plant	U.S.A. (AL, GA, TN)	E	56, 89	NA	NA
Saxifragaceae—Saxifrage family:						
Ribes echinellum	Miccosukee gooseberry	U.S.A. (FL, SC)	T	190	NA	NA
Scrophulariaceae—Snapdragon family:						
Castilleja grisea	San Clemente Island Indian paintbrush	U.S.A. (CA)	E	26	NA	NA
Cordylanthus maritimus ssp. maritimus	Salt marsh bird's beak	U.S.A. (CA), Mexico (Baja California).	E	44	NA	NA
Pedicularis furbishiae	Furbish louseworl	U.S.A. (ME), Canada (New Brunswick).	E	39	NA	NA
Solanaceae—Nightshade family:						
Goetzea elegans	Beautiful goetzea, matabuey	U.S.A. (PR)	E	176	NA	NA
Styracaceae—Styrax family:						
Styrax texana	Texas snowbells	U.S.A. (TX)	E	162	NA	NA
Taxaceae—Yew family:						
Torreya taxifolia	Florida torreya	U.S.A. (FL, GA)	E	140	NA	NA

E—Indicates Emergency rule publication (see FR document for effective dates); subsequent number(s) indicate FR final rule, if applicable under "When listed".

EDITORIAL NOTE: For "When listed" citations, see list following; for symbols in "When listed" see below.

26—42 FR 40685; August 11, 1977.
39—43 FR 17916; April 26, 1978.
44—43 FR 44812; September 28, 1978.
47—44 FR 24250; April 24, 1979.
49—44 FR 32605; June 6, 1979.
53—44 FR 43701; July 25, 1979.
56—44 FR 54923; September 21, 1979.
57—44 FR 58863; October 2, 1979.
58—44 FR 58868; October 11, 1979.
59—44 FR 58870; October 11, 1979.
61—44 FR 61556; October 25, 1979.
62—44 FR 61558; October 25, 1979.
63—44 FR 61786; October 26, 1979.
64—44 FR 61788; October 26, 1979
65—44 FR 61911; October 26, 1979.
66—44 FR 61913; October 26, 1979.
67—44 FR 61916; October 26, 1979.
68—44 FR 61920; October 26, 1979.
69—44 FR 61924; October 26, 1979.
70—44 FR 61927; October 26, 1979.
71—44 FR 61929; October 26, 1979.
72—44 FR 62246; October 26, 1979.
73—44 FR 62469; October 30, 1979.
74—44 FR 62471; October 30, 1979.
75—44 FR 62474; October 30, 1979.
76—44 FR 64247; November 6, 1979.
77—44 FR 64250; November 6, 1979.
78—44 FR 64252; November 6, 1979.
79—44 FR 64733; November 7, 1979.
80—44 FR 64738; November 7, 1979.
81—44 FR 64740; November 7, 1979.
82—44 FR 64743; November 7, 1979.
83—44 FR 64746; November 7, 1979.
84—44 FR 65005; November 8, 1979.
89—45 FR 18929; March 24, 1980.
104—45 FR 61944; September 17, 1980.
107—45 FR 69360; October 20, 1980.
109—46 FR 3184; January 13, 1981.
110—46 FR 5730; January 19, 1981.
112—46 FR 40025; August 6, 1981.
116—47 FR 19539; May 6, 1982.
118—47 FR 30440; July 13, 1982.
120—47 FR 36846; August 24, 1982.
121—47 FR 38540; September 1, 1982.
122—47 FR 38927; September 10, 1982.
126—47 FR 50885; November 10, 1982.
133—48 FR 46331; October 12, 1983.
137—48 FR 52747; November 22, 1983.
140—49 FR 2786; January 23, 1984.
141—49 FR 6102; February 17, 1984.
147—49 FR 21058; May 18, 1984.
148—49 FR 22329; May 29, 1984.
151—49 FR 28565; July 13, 1984.
152—49 FR 29234; July 19, 1984.
153—49 FR 29237; July 19, 1984.
154—49 FR 30201; July 27, 1984.
155—49 FR 31421; Aug. 7, 1984.
158—49 FR 34500; Aug. 31, 1984.
162—49 FR 40038; October 12, 1984.
165—49 FR 44756; November 9, 1984.
167—49 FR 47400; December 4, 1984.
168—49 FR 49639; December 21, 1984.
172—50 FR 5758; February 12, 1985.
175—50 FR 12309; March 28, 1985.
176—50 FR 15567; April 19, 1985.
177—50 FR 16682; April 26, 1985.
178—50 FR 19373; May 8, 1985.
179—50 FR 19377; May 8, 1985.
180—50 FR 20214; May 15, 1985.
181—50 FR 20786; May 20, 1985.
187—50 FR 26572; June 27, 1985.
190—50 FR 29341; July 18, 1985.
191—50 FR 29344; July 18, 1985.
192—50 FR 29349; July 18, 1985.
194—50 FR 31190; August 1, 1985.
197—50 FR 32575; August 13, 1985.
198—50 FR 33731; August 21, 1985.
199—50 FR 33734; August 21, 1985.
200—50 FR 33737; August 21, 1985.
201—50 FR 36089; September 5, 1985.
202—50 FR 36091; September 5, 1985.
204—50 FR 37863; September 18, 1985.

[48 FR 34182, July 27, 1983, 48 FR 34961, Aug. 2, 1983, as amended at 49 FR 33893, Aug. 27, 1984]

EDITORIAL NOTE: For additional FEDERAL REGISTER citations affecting the table in § 17.12(h), see the listing which follows the table.

Subpart C—Endangered Wildlife

§ 17.21 Prohibitions.

(a) Except as provided in Subpart A of this part, or under permits issued pursuant to § 17.22 or § 17.23, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit or to cause to be committed, any of the acts described in paragraphs (b) through (f) of this section in regard to any endangered wildlife.

(b) *Import or export.* It is unlawful to import or to export any endangered wildlife. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Take.* (1) It is unlawful to take endangered wildlife within the United States, within the territorial sea of the United States, or upon the high seas. The high seas shall be all waters seaward of the territorial sea of the United States, except waters officially recognized by the United States as the territorial sea of another country, under international law.

(2) Notwithstanding paragraph (c)(1) of this section, any person may take endangered wildlife in defense of his own life or the lives of others.

(3) Notwithstanding paragraph (c)(1) of this section, any employee or

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agent of the Service, any other Federal land management agency, the National Marine Fisheries Service, or a State conservation agency, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take endangered wildlife without a permit if such action is necessary to:

(i) Aid a sick, injured or orphaned specimen; or

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study; or

(iv) Remove specimens which constitute a demonstrable but nonimmediate threat to human safety, provided that the taking is done in a humane manner; the taking may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed, in a remote area.

(4) Any taking pursuant to paragraphs (c) (2) and (3) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with directions from Service.

(5) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State Conservation Agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties take those endangered species which are covered by an approved cooperative agreement for conservation programs in accordance with the Cooperative Agreement, provided that such taking is not reasonably anticipated to result in:

(i) The death or permanent disabling of the specimen;

(ii) The removal of the specimen from the State where the taking occurred;

(iii) The introduction of the specimen so taken, or of any progeny derived from such a specimen, into an area beyond the historical range of the species; or

(iv) The holding of the specimen in captivity for a period of more than 45 consecutive days.

(d) *Possession and other acts with unlawfully taken wildlife.* (1) It is unlawful to possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any endangered wildlife which was taken in violation of paragraph (c) of this section.

Example. A person captures a whooping crane in Texas and gives it to a second person, who puts it in a closed van and drives thirty miles, to another location in Texas. The second person then gives the whooping crane to a third person, who is apprehended with the bird in his possession. All three have violated the law—the first by illegally taking the whooping crane; the second by transporting an illegally taken whooping crane; and the third by possessing an illegally taken whooping crane.

(2) Notwithstanding paragraph (d)(1) of this section, Federal and State law enforcement officers may possess, deliver, carry, transport or ship any endangered wildlife taken in violation of the Act as necessary in performing their official duties.

(e) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, any endangered wildlife.

(f) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered wildlife.

(2) An advertisement for the sale of endangered wildlife which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the U.S. Fish and Wildlife Service shall not be considered an offer for sale within the meaning of this section.

(g) *Captive-bred wildlife.* (1) Notwithstanding paragraphs (b), (c), (e) and (f) of this section, any person may take; import or export; deliver, receive, carry, transport or ship in interstate or foreign commerce, in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce any endangered wildlife that is bred in captivity in the United States provided the following conditions are met:

(i) The wildlife is a species having a natural geographic distribution not including any part of the United States, or the wildlife is a species that the Director has determined to be eligible in accordance with paragraph (g)(5) of this section;

(ii) The purpose of such activity is to enhance the propagation or survival of the affected species;

(iii) Such activity does not involve interstate or foreign commerce, in the course of a commercial activity, with respect to non-living wildlife;

(iv) Each specimen of wildlife to be imported is uniquely identified by a band, tattoo or other means that was reported in writing to an official of the Service at a port of export prior to export from the United States, and

(v) Any person subject to the jurisdiction of the United States who engages in any of the activities authorized by this paragraph does so in accordance with paragraphs (g) (2), (3) and (4) of this section.

(2) Any person subject to the jurisdiction of the United States seeking to engage in any of the activities authorized by this paragraph must first register with the Service (Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240). Requests for registration must be submitted on an official application form (Form 3-200) provided by the Service, and must include the following information:

(i) The types of wildlife sought to be covered by the registration, identified by common and scientific name to the taxonomic level of family, genus or species;

(ii) A description of the applicant's experience in maintaining and propagating the types of wildlife sought to be covered by the registration, or in conducting research directly related to maintaining and propagating such wildlife;

(iii) A description, if appropriate, of the means by which the applicant intends to educate the public about the ecological role and conservation needs of the affected species;

(iv) Photograph(s) or other evidence clearly depicting the facilities where such wildlife will be maintained; and

(v) A copy of the applicant's license or registration, if any, under the animal welfare regulations of the U.S. Department of Agriculture (9 CFR Part 2).

(3) Upon receiving a complete application, the Director will decide whether or not the registration will be approved. In making his decision, the Director will consider, in addition to the general criteria in § 13.2(b) of this subchapter, whether the expertise, facilities or other resources available to the applicant appear adequate to enhance the propagation or survival of the affected wildlife. Each person so registered must maintain accurate written records of activities conducted under the registration and must submit to the Director a written annual report of such activities.

(4) Any person subject to the jurisdiction of the United States seeking to export or conduct foreign commerce in captive-bred endangered wildlife which will not remain under the care of that person must first obtain approval by providing written evidence to satisfy the Director that the proposed recipient of the wildlife has expertise, facilities or other resources adequate to enhance the propagation or survival of such wildlife and that the proposed recipient will use such wildlife for purposes of enhancing the propagation or survival of the affected species.

(5)(i) The Director shall use the following criteria to determine if wildlife of any species having a natural geographic distribution that includes any part of the United States is eligible for the provisions of this paragraph:

(A) Whether there is a low demand for taking of the species from wild populations, either because of the success of captive breeding or because of other reasons, and

(B) Whether the wild populations of the species are effectively protected from unauthorized taking as a result of the inaccessibility of their habitat to man or as a result of the effectiveness of law enforcement.

(ii) The Director shall follow the procedures set forth in section 4(b) and section 4(f)(2)(A) of the Act and in the regulations promulgated thereunder with respect to petitions and notification of the public and governors of affected States when determining the eligibility of species for purposes of this paragraph.

(iii) In accordance with the criteria in paragraph (g)(5)(i) of this section, the Director has determined the following species to be eligible for the provisions of this paragraph:

Laysan teal (*Anas laysanensis*).

[40 FR 44415, Sept. 26, 1975, as amended at 40 FR 53400, Nov. 18, 1975; 41 FR 19226, May 11, 1976; 44 FR 31580, May 31, 1979; 44 FR 54007, Sept. 17, 1979]

§ 17.22 Permits for scientific purposes, enhancement of propagation or survival, or for incidental taking.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.21, in accordance with the issuance criteria of this section, for scientific purposes, for enhancing the propagation or survival, or for the incidental taking of endangered wildlife. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time. (See § 17.32 for permits for threatened species.) The Director shall publish notice in the FEDERAL REGISTER of each application for a permit that is made under this section. Each notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application. The 30-day period may be waived by the Director in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published in the FEDERAL REGISTER within 10 days following issuance of the permit.

(a)(1) *Application requirements for permits for scientific purposes or for the enhancement of propagation or survival.* Applications for permits under this paragraph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201, by the person wishing to engage in the activity prohibited by § 17.21. Each application must be submitted on an official application (Form 3-200) provided by the Service and must include as an attachment, all of the following information:

(i) The common and scientific names of the species sought to the covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce);

(ii) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (A) is still in the wild, (B) has already been removed from the wild, or (C) was born in captivity;

(iii) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(iv) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was born in captivity, the country and place where such wildlife was born;

(v) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(vi) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams, of the facilities to house and/or care for the wildlife and a resume of the experience of those person who will be caring for the wildlife;

(vii) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit;

(viii) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data to a studbook;

(ix) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(2) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(1) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(i) Whether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(ii) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(iii) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(iv) Whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(v) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and

(vi) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(3) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this paragraph shall be subject to the special condition that the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

(4) *Duration of permits.* The duration of permits issued under this paragraph shall be designated on the face of the permit.

(b)(1) *Application requirements for permits for incidental taking.* Applications for permits under this paragaph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201, by the person wishing to engage in the activity prohibited by § 17.21(c). Each application must be submitted on an official application (Form 3-200) provided by the Service and must include as an attachment all of the following information:

(i) A complete description of the activity sought to be authorized;

(ii) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, if known;

(iii) A conservation plan that specifies:

(A) The impact that will likely result from such taking;

(B) What steps the applicant will take to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;

(C) What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and

(D) Such other measures that the Director may require as being necessary or appropriate for purposes of the plan;

(iv) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(2) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b)(1) of this section, the Director will decide whether or not a permit should be issued. The Director shall consider the general criteria in § 13.21(b) of this subchapter and shall issue the permit if he finds that: (i) The taking will be incidental; (ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided; (iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; (v) the measures, if any, required under paragraph (b)(1)(iii)(D) of this section will be met; and (vi) he has received such other assurances as he may require that the plan will be implemented. In making his decision, the Director shall also consider the anticipated duration and geographic scope of the applicant's planned activities, including the amount of listed species habitat that is involved and the degree to which listed species and their habitats are affected.

(3) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this paragraph shall contain such terms and conditions as the Director deems necessary or appropriate to carry out the purposes of the permit and the conservation plan including, but not limited to, monitoring and reporting requirements deemed necessary for determining whether such terms and conditions are being complied with. The Director shall rely upon existing reporting requirements to the maximum extent practicable.

(4) *Duration of permits.* The duration of permits issued under this paragraph shall be sufficient to provide adequate assurances to the permittee to commit funding necessary for the activities authorized by the permit, including conservation activities and land use restrictions. In determining the duration of a permit, the Director shall consider the duration of the planned activities, as well as the possible positive and negative effects associated with permits of the proposed duration on listed species, including the extent to which the conservation plan will enhance the habitat of listed species and increase the long-term survivability of such species.

(c) *Objection to permit issuance.* (1) In regard to any notice of a permit application published in the FEDERAL REGISTER, any interested party that objects to the issuance of a permit, in whole or in part, may, during the comment period specified in the notice, request notification of the final action to be taken on the application. A separate written request shall be made for each permit application. Such a request shall specify the Service's permit application number and state the reasons why that party believes the applicant does not meet the issuance criteria contained in §§ 13.21 and 17.22 of this subchapter or other reasons why the permit should not be issued.

(2) If the Service decides to issue a permit contrary to objections received pursuant to paragraph (c)(1) of this section, then the Service shall, at least ten days prior to issuance of the permit, make reasonable efforts to contact by telephone or other expedient means, any party who has made a request pursuant to paragraph (c)(1) of this section and inform that party of the issuance of the permit. However, the Service may reduce the time period or dispense with such notice if it determines that time is of the essence and that delay in issuance of the permit would: (i) Harm the specimen or population involved; or (ii) unduly hinder the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (c)(1) of this section of the final action taken on the application, in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (c)(2) of this section, it will include its reasons therefore in such written notice.

[50 FR 39687, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39687, Sept. 30, 1985, § 17.22 was revised, effective October 30, 1985. For the convenience of the user, the superseded text appears below.

§ 17.22 Permits for scientific purposes or for the enhancement of propagation or survival.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.21, in accordance with the issuance criteria of this section, for scientific research or for enhancing the propagation or survival of endangered wildlife. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time. (See § 17.32 for permits for threatened species.)

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the activity prohibited by § 17.21. Each application must be submitted on an official application (Form 3-200) provided by the Service, and must include as an attachment, all of the following information:

(1) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce, etc.);

(2) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (i) is still in the wild, (ii) has already been removed from the wild, or (iii) was born in captivity;

(3) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(4) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was raised in captivity, the country and place where such wildlife was born;

(5) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a résumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(4) Whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(5) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and

(6) Whether the expertise, facilities or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

(d) *Duration of permits.* The duration of permits issued under this section shall be designated on the face of the permit.

(e) *Objection to permit issuance.* (1) In regard to any notice of a permit application published in the FEDERAL REGISTER, any interested party that objects to the issuance, in whole or in part, of a permit, may, during the comment period specified in the notice, request notification of the final action to be taken on the application. A separate written request shall be made for each permit application. Such a request shall specify the Service's permit number of the application in question and state the reasons why that party believes the applicant does not meet the issuance criteria contained in §§ 13.21 and 17.22 or 17.23 of this subchapter or other reasons why the permit should not be issued.

(2) If the Service decides to issue a permit contrary to objections received pursuant to paragraph (e)(1) of this, then the Service shall, at least ten days prior to issuance of the permit, make reasonable efforts to contact by telephone or other expedient means, any party who has made a request pursuant to paragraph (e)(1) of this section and inform that party of the issuance of the permit. However, the Service may reduce the time period or dispense with such notice, if it determines that time is of the essence and that delay in issuance of the permit would: (i) Harm the specimen or population involved; or (ii) would unduly hinder the actions authorized under the permit.

(3) The Service will notify any party filing an objection and request for notice under paragraph (e)(1) of this section of the final action taken on the application, in writing. If the Service has reduced or dispensed with the notice period referred to in paragraph (e)(2) of this section, it will include its reasons therefor in such written notice.

[40 FR 44415, Sept. 26, 1975, as amended at 40 FR 53400, Nov. 18, 1975; 41 FR 19926, May 11, 1976; 47 FR 30786, July 15, 1982]

§ 17.23 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.21, in accordance with the issuance criteria of this section in order to prevent undue economic hardship. The Director shall publish notice in the FEDERAL REGISTER of each application for a permit that is made under this section. Each notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application. The 30-day period may be waived by the Director in an emergency situation where the life or health of an endangered animal is threatened and no reasonable alternative is available to the applicant. Notice of any such waiver shall be published in the FEDERAL REGISTER within 10 days following issuance of the permit.

(a) *Application requirements.* Applications for permits under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited by § 17.21. Each application must be submitted on an official application form (Form 3-200) provided by the Service, and must include, as an attachment, all of the information required in § 17.22 plus the following additional information:

(1) The possible legal, economic or subsistence alternatives to the activity sought to be authorized by the permit;

(2) A full statement, accompanied by copies of all relevant contracts and correspondence, showing the applicant's involvement with the wildlife sought to be covered by the permit (as well as his involvement with similar wildlife), including, where applicable, that portion of applicant's income derived from the taking of such wildlife, or the subsistence use of such wildlife, during the calendar year immediately preceding either the notice in the FEDERAL REGISTER of review of the status of the species or of the proposal to list such wildlife as endangered, whichever is earliest;

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the wildlife sought to be covered by the permit;

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued under any of the three categories of economic hardship, as defined in section 10(b)(2) of the Act. In making his decisions, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is being requested is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) The economic, legal, subsistence, or other alternatives or relief available to the applicant;

(4) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which;

(i) Deals specifically with the wildlife sought to be covered by the permit; and

(ii) Became binding prior to the date when the notice of a review of the status of the species or the notice of proposed rulemaking proposing to list such wildlife as endangered was published in the FEDERAL REGISTER, whichever is earlier.

(5) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(4) of this section would cause if the permit were denied;

(6) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income;

(7) Where applicable, the nature and extent of subsistence taking generally by the applicant; and

(8) The likelihood that applicant can reasonably carry out his desired activity within one year from the date a notice is published in the FEDERAL REGISTER to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) In addition to any reporting requirements contained in the permit itself, the permittee shall also submit to the Director a written report of his activities pursuant to the permit. Such report must be postmarked or actually delivered no later than 10 days after completion of the activity.

(2) The death or escape of all living wildlife covered by the permit shall be immediately reported to the Service's office designated in the permit.

(d) Duration of permits issued under this section shall be designated on the face of the permit. No permit issued under this section, however, shall be valid for more than one year from the date a notice is published in the FEDERAL REGISTER to review status of such wildlife, or to list such wildlife as endangered, whichever is earlier.

[40 FR 44415, Sept. 26, 1975, as amended at 40 FR 53400, Nov. 18, 1975; 40 FR 58307, Dec. 16, 1975; 50 FR 39688, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39688, Sept. 30, 1985, the introductory text to § 17.23 was revised, effective October 30, 1985. For the convenience of the user, the superseded text appears below:

§ 17.23 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.21, in accordance with the issuance criteria of this section in order to prevent undue economic hardship.

* * * * *

Subpart D—Threatened Wildlife

§ 17.31 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this subpart, all of the provisions in § 17.21 shall apply to threatened wildlife, except § 17.21(c)(5).

(b) In addition to any other provisions of this Part 17, any employee or agent of the Service, of the National Marine Fisheries Service, or of a State conservation agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by his agency for such purposes, may, when acting in the course of his official duties, take those threatened species of wildlife which are covered by an approved cooperative agreement to carry out conservation programs.

(c) Whenever a special rule in §§ 17.40 to 17.48 applies to a threatened species, none of the provisions of paragraphs (a) and (b) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions.

[43 FR 18181, Apr. 28, 1978, as amended at 44 FR 31580, May 31, 1979]

§ 17.32 Permits—general.

Upon receipt of a complete application the Director may issue a permit for any activity otherwise prohibited with regard to threatened wildlife. Such permit shall be governed by the provisions of this section unless a special rule applicable to the wildlife, appearing in §§ 17.40 to 17.48, of this part provides otherwise. Permits issued under this section must be for one of the following purposes: Scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or incidental taking, or special purposes consistent with the purposes of the Act. Such permits may authorize a single transaction, a series of transactions, or a number of activities over a specific period of time.

(a)(1) *Application requirements for scientific purposes, or the enhancement of propagation or survival, or economic hardship, or zoological exhibition, or educational purposes, or special purposes consistent with the purposes of the Act.* Applications for permits under this paragraph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201, by the person wishing to engage in the prohibited activity. Each application must be submitted on an official application (Form 3-200) provided by the Service, and must include, as an attachment, as much of the following information which relates to the purpose for which the applicant is requesting a permit:

(i) The Common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce);

(ii) A statement as to whether, at the time of application, the wildlife sought to be covered by the permit (A) is still in the wild, (B) has already been removed from the wild, or (C) was born in captivity;

(iii) A resume of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(iv) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by permit was born in captivity, the country and place where such wildlife was born;

(v) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(vi) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams, of the facilities to house and/or care for the wildlife and a resume of the experience of those persons who will be caring for the wildlife;

(vii) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit;

(viii) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program and to maintain or contribute data to a studbook;

(ix) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(2) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(1) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(i) Whether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(ii) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(iii) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(iv) Whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(v) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and

(vi) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(3) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this paragraph shall be subject to the special condition that the escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

(4) *Duration of permits.* The duration of permits issued under this paragraph shall be designated on the face of the permit.

(b)(1) *Application requirements for permits for incidental taking.* (i) Applications for permits under this paragraph must be submitted to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, 1000 N. Glebe Road, Room 611, Arlington, Virginia 22201, by the person wishing to engage in the activity prohibited by § 17.31.

(ii) The director shall publish notice in the FEDERAL REGISTER of each application for a permit that is made under this section. Each notice shall invite the submission from interested parties, within 30 days after the date of the notice, of written data, views, or arguments with respect to the application.

(iii) Each application must be submitted on an official application (Form 3-200) provided by the Service, and must include as an attachment, all of the following information:

(A) A complete description of the activity sought to be authorized;

(B) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, if known;

(C) A conservation plan that specifies:

(*1*) The impact that will likely result from such taking;

(*2*) What steps the applicant will take to monitor, minimize, and mitigate such impacts, the funding that will be available to implement such steps, and the procedures to be used to deal with unforeseen circumstances;

(*3*) What alternative actions to such taking the applicant considered and the reasons why such alternatives are not proposed to be utilized; and

(*4*) Such other measures that the Director may require as being necessary or appropriate for purposes of the plan.

(iv) The information collection requirements contained in this paragraph have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(2) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b)(1) of this section, the Director will decide whether or not a permit should be issued. The Director shall consider the general criteria in § 13.21(b) of this subchapter and shall issue the permit if he finds that: (i) The taking will be incidental; (ii) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; (iii) the applicant will ensure that adequate funding for the conservation plan and procedures to deal with unforeseen circumstances will be provided; (iv) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; (v) the measures, if any, required under paragraph (b)(1)(iii)(D) will be met; and (vi) he has received such other assurances as he may require that the plan will be implemented. In making his decision, the Director shall also consider the anticipated duration and geographic scope of the applicant's planned activities, including the amount of listed species habitat that is involved and the degree to which listed species and their habitats are affected.

(3) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this paragraph shall contain such terms and conditions as the Director deems necessary or appropriate to carry out the purposes of the permit and the conservation plan including, but not limited to, monitoring and reporting requirements deemed necessary for determining whether such terms and conditions are being complied with. The Director shall rely upon existing reporting requirements to the maximum extent practicable.

(4) *Duration of permits.* The duration of permits issued under this paragraph shall be sufficient to provide adequate assurances to the permittee to commit funding necessary for the activities authorized by the permit, including conservation activities and land use restrictions. In determining the duration of a permit, the Director shall consider the duration of the planned activities, as well as the possible positive and negative effects associated with permits of the proposed duration on listed species, including the extent to which the conservation plan will enhance the habitat of listed species and increase the long-term survivability of such species.

[50 FR 39689, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39689, Sept. 30, 1985, § 17.32 was revised, effective October 30, 1985. For the convenience of the user, the superseded text appears below:

§ 17.32 Permits—general.

Upon receipt of a complete application the Director may issue a permit for any activity otherwise prohibited with regard to threatened wildlife. Such permit shall be governed by the provisions of this section unless a special rule applicable to the wildlife, appearing in §§ 17.40 to 17.48, of this part provides otherwise. Permits issued under this section must be for one of the following purposes: Scientific purposes, or the enhancement of propagation or survival; or economic hardship; or zoological exhibition; or educational purposes; or special purposes consistent with the purposes of the Act. Such permits may authorize a single transaction, a series of transactions, or activities over a specific period of time.

(a) *Application requirements.* Applications for permits under this section must be submitted to the U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203, by the person who wishes to engage in the prohibited activity. Each application must be submitted on an official application (Form 3-200) provided by the Service, and must include, as an attachment, as much of the following information which relates to the purpose for which the applicant is requesting a permit.

(1) The common and scientific names of the species sought to be covered by the permit, as well as the number, age, and sex of such species, and the activity sought to be authorized (such as taking, exporting, selling in interstate commerce, etc.);

(2) A statement as to whether, at the time of application, the wildlife sought to be cov-

ered by the permit (i) is still in the wild, (ii) has already been removed from the wild, or (iii) was born in captivity;

(3) A resumé of the applicant's attempts to obtain the wildlife sought to be covered by the permit in a manner which would not cause the death or removal from the wild of such wildlife;

(4) If the wildlife sought to be covered by the permit has already been removed from the wild, the country and place where such removal occurred; if the wildlife sought to be covered by the permit was raised in captivity, the country and place where such wildlife was born;

(5) A complete description and address of the institution or other facility where the wildlife sought to be covered by the permit will be used, displayed, or maintained;

(6) If the applicant seeks to have live wildlife covered by the permit, a complete description, including photographs or diagrams of the facilities to house and/or care for the wildlife and a resumé of the experience of those persons who will be caring for the wildlife.

(7) A full statement of the reasons why the applicant is justified in obtaining a permit including the details of the activities sought to be authorized by the permit.

(8) If the application is for the purpose of enhancement of propagation, a statement of the applicant's willingness to participate in a cooperative breeding program, and to maintain or contribute data to a studbook.

(9) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal Wildlife conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is required is adequate to justify removing from the wild or otherwise changing the status of the wildlife sought to be covered by the permit;

(2) The probable direct and indirect effect which issuing the permit would have on the wild populations of the wildlife sought to be covered by the permit;

(3) Whether the permit, if issued, would in any way, directly or indirectly, conflict with any known program intended to enhance the survival probabilities of the population from which the wildlife sought to be covered by the permit was or would be removed;

(4) Whether the purpose for which the permit is required would be likely to reduce the threat of extinction facing the species of wildlife sought to be covered by the permit;

(5) The opinions or views of scientists or other persons or organizations having expertise concerning the wildlife or other matters germane to the application; and

(6) Whether the expertise, facilities or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the special condition that: (1) The escape of living wildlife covered by the permit shall be immediately reported to the Service office designated in the permit.

(d) *Duration of permits.* The duration of permits issued under this section shall be designated on the face of the permit.

[40 FR 44415, Sept. 26, 1975, as amended at 41 FR 19226, May 11, 1976; 47 FR 30787, July 15, 1982]

§ 17.40 Special rules—mammals.

(a) Kangaroo, Eastern Gray (*Macropus giganteus*), Red (*Megalia rufa*), and Western Gray (*Macropus fuliginosus*)—(1) *Prohibitions.* The following prohibitions apply to the Eastern Gray, Red and Western Gray kangaroos:

(i) *Import.* (A) Except as allowed in paragraph (a)(1)(i)(B) of this section, it shall be unlawful to import any such wildlife for commercial purposes.

(B) Eastern Gray, Red, and Western Gray kangaroos—including parts and products of such wildlife—which have been tagged or otherwise identified as removed from the wild in accordance with the management plans of Australian states may be imported into the United States without permits for individual shipments otherwise required by 50 CFR Part 17. Importation into the United States must comply with the requirements of 50 CFR Part 14. Service Form 3-177, Declaration for Importation or Exportation of Fish or Wildlife, filed with the U.S. Customs Service upon import shall satisfy the reporting requirements of 50 CFR Part 14, Subpart C.

(ii) *Unlawfully imported kangaroos.* It shall be unlawful, in the course of a commercial activity, to deliver, receive, carry, transport, or ship in interstate or foreign commerce any such wildlife imported unlawfully.

(iii) *Commercial transactions.* It shall be unlawful to sell or offer for sale in interstate or foreign commerce any such wildlife imported unlawfully.

(b) *Grizzly bear* (*Ursus arctos horribilis*)—(1) *Prohibitions.* The following prohibitions apply to the grizzly bear:

(i) *Taking.* (A) Except as provided in paragraphs (b)(1)(i) (B) through (F), of this section no person shall take any grizzly bear in the 48 conterminous states of the United States.

(B) Grizzly bears may be taken in self-defense, or in defense of others, but any such taking shall be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, and to appropriate State officials, within 5 days after it occurs.

(C) *Removal of nuisance bears.* A grizzly bear constituting a demonstrable but non-immediate threat to human safety, or committing significant depredations to lawfully present livestock, may be taken, but only if:

(*1*) It has not been reasonably possible to eliminate such threat or depredation by live-capturing and releasing unharmed in a remote area the grizzly bear involved; and

(*2*) The taking is done in a humane manner by authorized Federal or State employees; and

(*3*) The taking is reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, and to appropriate State officials, within 5 days after it occurs.

(D) *Federal or State scientific or research activities.* Authorized Federal or State employees may pursue, capture, or collect grizzly bears for scientific or research purposes.

(E) *Northwestern Montana.* If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bears in the Flathead National Forest, the Bob Marshall Wilderness Area, and the Mission Mountains Primitive Area of Montana: *Provided,* That if in any year in question, 25 grizzly bears have already been killed for whatever reason in that part of Montana, including the Flathead National Forest, the Bob Marshall Wilderness Area and the Mission Mountains Primitive Area, which is bounded on the north by the United States-Canadian Border, on the east by U.S. Highway 91, on the south by U.S. Highway 12, and on the west by Montana-Idaho State line, the Director shall post and publish a notice prohibiting such hunting, and any such hunting for the remainder of that year shall be unlawful: *Provided further,* That any taking of a grizzly bear, for whatever reason, in the above-described portion of Montana shall be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036, and to the Montana Department of Fish and Game, within 5 days after the taking occurs; and except that any taking on an Indian reservation within the above-described area shall be so reported only to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 19183, Washington, D.C. 20036.

(F) *National Parks.* The regulations of the National Park Service shall govern all taking of grizzly bears in National Parks.

(ii) *Unlawfully taken grizzly bears.* (A) Except as provided in paragraph (b)(1)(ii)(B) of this section, no person shall possess, deliver, carry, transport, ship, export, or sell grizzly bear taken unlawfully.

(B) Authorized Federal or State employees may for scientific or research purposes possess, deliver, carry, transport, ship, or export unlawfully taken grizzly bears.

(iii) *Import or export.* (A) Except as provided in paragraph (b)(1)(iii)(A), of this section, no person shall import any grizzly bear into the United States.

(*1*) *Federal or State scientific or research activities.* Authorized Federal or State employees may import grizzly bears into the United States for scientific or research purposes.

(2) *Public zoological institutions.* Public zoological institutions (see 50 CFR 10.12) may import grizzly bears into the United States.

(B) Except for public zoological institutions (see 50 CFR 10.12), no person shall, in the course of a commercial activity, export any grizzly bear from the United States.

(iv) *Commercial transactions.* (A) Except for public zoological institutions (see 50 CFR 10.12), no person shall, in the course of a commercial activity, deliver, receive, carry, transport, or ship in interstate or foreign commerce any grizzly bear.

(B) Except for public zoological institutions (see 50 CFR 10.12) dealing with other public zoological institutions, no person shall sell or offer for sale in interstate or foreign commerce any grizzly bear.

(v) *Other violations.* No person shall attempt to commit, cause to be committed, or solicit another to commit any act prohibited by this paragraph (a)(1) of this section.

(2) *Definitions.* As used in paragraph (b) of this section the term "grizzly bear" means any member of the species, *Ursus arctos horribilis* of the 48 conterminous states of the United States, including any part, offspring, dead body, part of a dead body, or product of such species.

(c) *Primates.* (1) Except as noted in paragraph (c)(2) of this section, all provisions of § 17.31 shall apply to the Lesser slow loris, *Nycticebus pygmaeus;* Philippine tarsier, *Tarsius syrichta;* White-footed tamarin, *Saguinus leucopus;* Black howler monkey, *Alouatta pigra;* Stumptail macaque, *Macaca arctoides;* Gelada, *Theropithecus gelada;* Formosan rock macaque, *Macaca cyclopis;* Japanese macaque, *Macaca fuscata;* Toque macaque, *Macaca sinica;* Long-tailed langur, *Presbytis potenzani;* Purple-faced langur, *Presbytis senex;* Tonkin snubnosed monkey, *Rhinopithecus avunculus;* Pigmy chimpanzee, *Pan paniscus;* and Chimpanzee, *Pan troglodytes.*

(2) The prohibitions referred to above do not apply to any live member of such species held in captivity in the United States on the effective date of the final rulemaking, or to the progeny of such animals, or to the progeny of animals legally imported into the United States after the effective date of the final rulemaking. *Provided,* That the person wishing to engage in any activity which would otherwise be prohibited must be able to show satisfactory documentary or other evidence as to the captive status of the particular member of the species on the effective date of this rulemaking or that the particular member of the species was born in captivity in the United States after the effective date of this rulemaking. Identification of the particular member to a record in the International Species Inventory System (ISIS), or to a Federal, State or local government permit, shall be deemed to be satisfactory evidence. Records in the form of studbooks or inventories, kept in the normal course of business, shall be acceptable as evidence, provided that a notarized statement is inserted in such record to the effect that:

(i) The records were kept in the normal course of business prior to November 18, 1976, and accurately identify (by use of markers, tags, or other acceptable marking devices) individual animals; or

(ii) That the individual animal identified by the records was born in captivity on ———(Date).

The notarized statement in paragraph (c)(2)(i) of this section, shall be acceptable only if the notarization is dated on or before January 3, 1977. The notarized statement in paragraph (c)(2)(ii), of this section, shall be acceptable only if the notarization is dated within 15 days of the date of birth of the animal.

(d) Gray wolf (*Canis lupus*) in Minnesota—(1) *Zones.* For purposes of these regulations, the State of Minnesota is divided into the following five zones.

ZONE 1—4,488 SQUARE MILES

Beginning at the point of intersection of United States and Canadian boundaries in Section 22, Township 71 North, Range 22 West, in Rainy Lake, then proceeding along the west side of Sections 22, 27, and 34 in said Township and Sections 3, 10, 15, 22, 27 and 34 in Township 70 North, Range 22 West and Sections 3 and 10 in Township 69 North, Range 22 West; then east along the south boundaries of Sections 10, 11, and 12 in said Township; then south along the Koochiching and St. Louis counties line to Highway 53; thence southeasterly along State Highway 53 to the junction with County Route 765; thence easterly along County Route 765 to the junction with Kabetogama Lake in Ash River Bay; thence along the south boundary of Section 33 in Township 69 North, Range 19 West, to the junction with the Moose River; thence southeasterly along the Moose River to Moose Lake; thence along the western shore of Moose Lake to the river between Moose Lake and Long Lake; thence along the said river to Long Lake; thence along the east shore of Long Lake to the drainage on the southeast side of Long Lake in NE¼, Section 18, Township 67 North, Range 18 West; thence along the said drainage southeasterly and subsequently northeasterly to Marion Lake, the drainage being in Section 17 and 18, Township 67 North, Range 18 West; thence along the west shoreline of Marion Lake proceeding southeasterly to the Moose Creek; thence along Moose Creek to Flap Creek; thence southeasterly along Flap Creek to the Vermilion River; thence southerly along the Vermilion River to Vermilion Lake; thence along the Superior National Forest boundary in a southeasterly direction through Vermilion Lake passing these points: Oak Narrows, Muskrat Channel, South of Pine Island, to Hoodo Point and the junction with County Route 697; thence southeasterly on County Route 697 to the junction with State Highway 169; thence easterly along State Highway 169 to the junction with State Highway 1; thence easterly along State Highway 1 to the junction with the Erie Railroad tracks at Murphy City; thence easterly along the Erie Railroad tracks to the junction with Lake Superior at Taconite Harbor; thence northeasterly along the North Shore of Lake Superior to the Canadian Border; thence westerly along the Canadian Border to the point of beginning in Rainy Lake.

ZONE 2—1,856 SQUARE MILES

Beginning at the intersection of the Erie Mining Co. Railroad and State Highway 1 (Murphy City); thence southeasterly on State Highway 1 to the junction with County Road 4; thence southwesterly on County Road 4 to the State Snowmobile Trail (formerly the Alger-Smith Railroad); thence southwesterly to the intersection of the Old Railroad Grade and Reserve Mining Co. Railroad in Section 33 of Township 56 North, Range 9 West; thence northwesterly along the Railroad to Forest Road 107; thence westerly along Forest Road 107 to Forest Road 203; thence westerly along Forest Road 203 to the junction with County Route 2; thence in a northerly direction on County Route 2 to the junction with Forest Road 122; thence in a westerly direction along Forest Road 122 to the junction with the Duluth, Missable and Iron Range Railroad; thence in a southwesterly direction along the said railroad tracks to the junction with County Route 14; thence in a northwesterly direction along County Route 14 to the junction with County Route 55; thence in a westerly direction along County Route 55 to the junction with County Route 44; thence in a southerly direction along County Route 44 to the junction with County Route 266; thence in a southeasterly direction along County Route 266 and subsequently in a westerly direction to the junction with County Road 44; thence in a northerly direction on County Road 44 to the junction with Township Road 2815; thence westerly along Township Road 2815 to Alden Lake; thence northwesterly across Alden Lake to the inlet of the Cloquet River; thence northerly along the Cloquet River to the junction with Carrol Trail-State Forestry Road; thence west along the Carrol Trail to the junction with County Route 4 and County Route 49; thence west along County Route 49 to the junction with the Duluth, Winnipeg and Pacific Railroad; thence in a northerly direction along said Railroad to the junction with the Whiteface River; thence in a northeasterly direction along the Whiteface River to the Whiteface Reservoir; thence along the western shore of the Whiteface Reservoir to the junction with County Route 340; thence north along County Route 340 to the junction with County Route 16; thence east along County Route 16 to the junction with County Route 346; thence in a northerly direction along County Route 346 to the junction with County Route 569; thence along County Route 569 to the junction with County Route 565; thence in a westerly direction along County Route 565 to the junction with County Route 110; thence in a westerly direction along County Route 110 to the junction with County Route 100; thence in a north and subsequent west direction along County Route 100 to the junction with State Highway 135; thence in a northerly direction along State Highway 135 to the junction with State Highway 169 at Tower; thence in an easterly direction along the southern boundary of Zone 1 to the point of beginning of Zone 2 at the junction of the Erie Railroad Tracks and State Highway 1.

ZONE 3—3,501 SQUARE MILES

Beginning at the junction of State Highway 11 and State Highway 65; thence southeasterly along State Highway 65 to the junction with State Highway 1; thence westerly along State Highway 1 to the junction with State Highway 72; thence north along

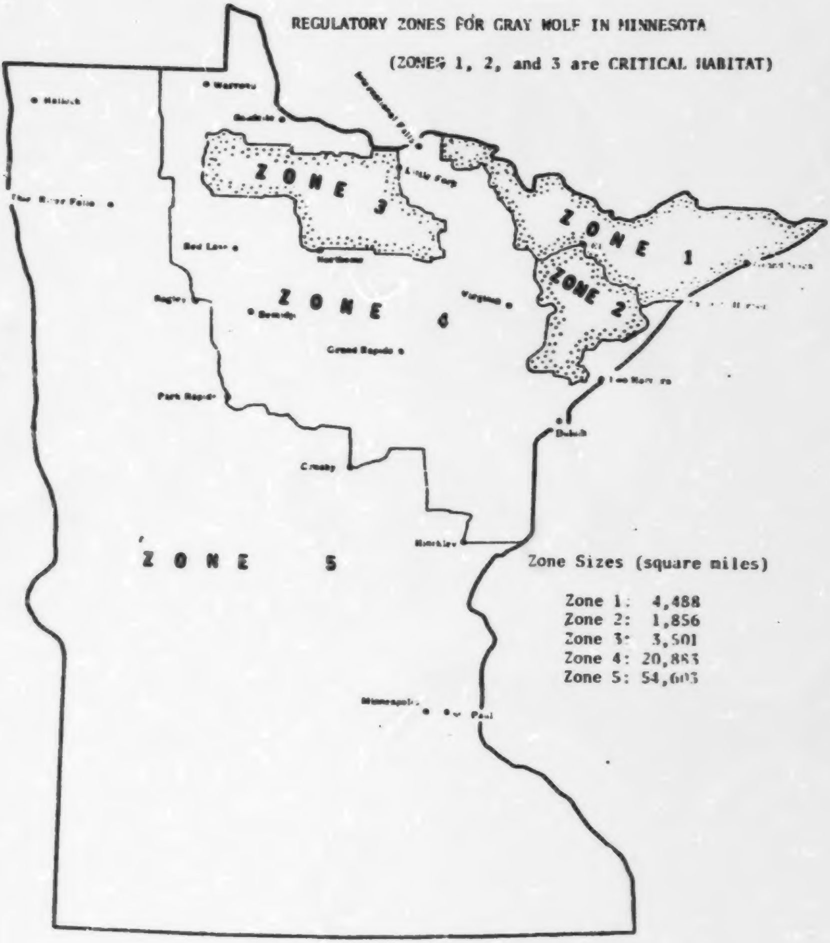
State Highway 72 to the junction with an un-numbered township road beginning in the northeast corner of Section 25, Township 155 North, Range 31 West; thence westerly along the said road for approximately seven (7) miles to the junction with SFR 95; thence westerly along SFR 95 and continuing west through the southern boundary of Sections 36 through 31, Township 155 North, Range 33 West, through Sections 36 through 31, Township 155 North, Range 34 West, through Sections 36 through 31, Township 155 North, Range 35 West, through Sections 36 and 35, Township 155 North, Range 36 West to the junction with State Highway 89, thence northwesterly along State Highway 89 to the junction with County Route 44; thence northerly along County Route 44 to the junction with County Route 704; thence northerly along County 704 to the junction with SFR 49; thence northerly along SFR 49 to the junction with SFR 57; thence easterly along SFR 57 to the junction with SFR 63; thence south along SFR 63 to the junction with SFR 70; thence easterly along SFR 70 to the junction with County Route 87; thence easterly along County Route 87 to the junction with County Route 1; thence south along County Route 1 to the junction with County Route 16; thence easterly along County Route 16 to the junction with State Highway 72; thence south on State Highway 72 to the junction with a gravel road (unnumbered County District Road) on the north side of Section 31, Township 158 North, Range 30 West; thence east on said District Road to the junction with SFR 62; thence easterly on SFR 62 to the junction with SFR 175; thence south on SFR 175 to the junction with County Route 101; thence easterly on County Route 101 to the junction with County Route 11; thence easterly on County Route 11 to the junction with State Highway 11; thence easterly on State Highway 11 to the junction with State Highway 65, the point of beginning.

ZONE 4—20,883 SQUARE MILES

Excluding Zones 1, 2 and 3, all that part of Minnesota north and east of a line beginning on State Trunk Highway 48 at the eastern boundary of the state; thence westerly along Highway 48 to Interstate Highway 35; thence northerly on I-35 to State Highway 23, thence west one-half mile on Highway 23 to State Trunk Highway 18; thence westerly along Highway 18 to State Trunk Highway 65, thence northerly on Highway 65 to State Trunk Highway 210; thence westerly along Highway 210 to State Trunk Highway 6; thence northerly on State Trunk Highway 6 to Emily; thence westerly along County State Aid Highway (CSAH) 1, Crow Wing County, to CSAH 2, Cass County; thence westerly along CSAH 2 to Pine River; thence northwesterly along State Trunk Highway 371 to Backus; thence westerly along State Trunk Highway 87 to U.S. Highway 71; thence northerly along U.S. 71 to State Trunk Highway 200; thence northwesterly along Highway 200, to County State Aid Highway (CSAH) 2, Clearwater County; thence northerly along CSAH 2 to Shevlin; thence along U.S. Highway 2 to Bagley; thence northerly along State Trunk Highway 92 to Gully; thence northerly along CSAH 2, Polk County, to CSAH 27, Pennington County; thence along CSAH 27 to State Trunk Highway 1; thence easterly on Highway 1 to CSAH 28, Pennington County; thence northerly along CSAH 28 to CSAH 54, Marshall County, thence northerly along CSAH 54 to Grygla; thence west and northerly along Highway 89 to Roseau; thence northerly along State Truck Highway 310 to the Canadian border.

ZONE 5—54,603 SQUARE MILES

All that part of Minnesota south and west of the line described as the south and west border of Zone 4.



REGULATORY ZONES FOR GRAY WOLF IN MINNESOTA

(ZONES 1, 2, and 3 are CRITICAL HABITAT)

International Falls
Little Fork
ZONE 3
Thief River Falls
Red Lake
Northome
ZONE 1
ZONE 2
ZONE 4
Bemidji
Virginia
Grand Rapids
Park Rapids
Duluth
Crosby
Hinckley
ZONE 5
Minneapolis
St. Paul

Zone Sizes (square miles)

Zone 1: 4,488
Zone 2: 1,856
Zone 3: 3,501
Zone 4: 20,883
Zone 5: 54,603

(2) *Prohibitions.* The following prohibitions apply to the gray wolf in Minnesota.

(i) *Taking.* Except as provided in this paragraph (d)(2)(i) of this section, no person may take a gray wolf in Minnesota.

(A) Any person may take a gray wolf in Minnesota in defense of his own life or the lives of others.

(B) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his/her agency for such purposes, may, when acting in the course of his/her official duties, take a gray wolf in Minnesota without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen; or

(*2*) Dispose of a dead specimen; or

(*3*) Salvage a dead specimen which may be useful for scientific study.

(*4*) Designated employees or agents of the Service or the Minnesota Department of Natural Resources may take a gray wolf without a permit in Minnesota, in zones 2, 3, 4, and 5, as delineated in paragraph (d)(1) of this section, in response to depredations by a gray wolf on lawfully present domestic animals: *Provided,* that such taking must occur within one-half mile of the place where such depredation occurred.

(C) The Minnesota Department of Natural Resources may permit persons to take a gray wolf in zones 3, 4, and 5, as delineated in paragraph (d)(1) of this section: *Provided* that

(*1*) Such taking shall be permitted not more than 5 miles inside the boundary of zone 3, in areas of recurring wolf depredation on lawfully present domestic animals; and the extent of such taking shall be adjusted periodically to maintain an average population density of not less than 1 wolf per 10 square miles (the Minnesota Department of Natural Resources shall determine population density on the basis of generally accepted wildlife census techniques);

(*2*) In zone 4, such taking shall be permitted primarily in areas of recurring depredation, and the extent of such taking shall be adjusted periodically to maintain an average population density in the zone of not less than 1 wolf per 50 square miles (the Minnesota Department of Natural Resources shall determine population density on the basis of generally accepted census techniques); and

(*3*) During the first year after the effective date of these regulations, not more than 50 gray wolves may be taken by the public in zone 4.

(D) Any employee or agent of the Service, any other Federal land management agency, or the Minnesota Department of Natural Resources who is designated by his/her agency for such purposes, may, when acting in the course of his/her official duties, take a gray wolf in Minnesota without a permit in any area of recurring depredation within which the Minnesota Department of Natural Resources has authorized taking under § 17.40(d)(2)(i)(C) of this section, if during the season immediately preceding the taking the persons participating in the season have not taken the number of wolves which the State has permitted to be taken, and such taking by an employee or agent of the Service, any other Federal land management agency or the Minnesota Department of Natural Resources would not reduce the density in the zone in which taking occurs below that specified in paragraph (d)(2)(i)(C) of this section.

(E) The taking authorized by § 17.40(d)(2)(i) (C) and (D) of this chapter shall not be permitted in those areas of Pine and Carlton Counties lying east of a line beginning where the east line of County Highway 23 meets the southern boundary of Pine County, then running north along the east line of County Highway 23 to the point in Carlton County where it intersects the east line of County Highway 1, then running north along the east line of County Highway 1 until it crosses the St. Louis River, until the Service has determined that such dispersal has resulted in a stable wolf population in Wisconsin, or unless recurring depredation by wolves on lawfully present domestic animals in those areas is determined by the Service to be a chronic problem.

(F) Any employee or agent of the Service or the Minnesota Department of Natural Resources, when operating under a Cooperative Agreement with the Service signed in accordance with section 6(c) of the Endangered Species Act of 1973, who is designated by the Service or the Minnesota Department of Natural Resources for such purposes, may, when acting in the course of his or her official duties, take a gray wolf in Minnesota to carry out scientific research or conservation programs.

(ii) *Export and commercial transactions.* (A) Except as provided in paragraph (d)(2)(ii)(B) of this section, or as provided in § 17.32 of this title, no person may sell or offer for sale in interstate commerce, or export, or in the course of a commercial activity transport, ship, carry, deliver, or receive any Minnesota gray wolf.

(B) A pelt from a gray wolf taken in accordance with the provisions of paragraph (d)(2)(i)(C) of this section, and tagged with a locking seal in accordance with the regulations of the Minnesota Department of Natural Resources, may be exported if the requirements of the Convention of International Trade in Endangered Species of Wild Fauna and Flora (see 50 CFR Part 23) are met; and a pelt from a gray wolf taken and tagged in such manner may be transported, shipped, carried, delivered, or received in interstate commerce in the course of a commercial or noncommercial activity, and may be sold or offered for sale in interstate commerce.

(iii) *Unlawfully taken wolves.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, a gray wolf taken unlawfully in Minnesota, except that an employee or agent of the Service, or any other Federal land management agency, or the Minnesota Department of Natural Resources, who is designated by his/her agency for such purposes, may, when acting in the course of his official duties, possess, deliver, carry, transport or ship a gray wolf taken unlawfully in Minnesota.

(3) *Permits.* All permits available under § 17.32 (General Permits—Threatened wildlife) are available with regard to the gray wolf in Minnesota. All the terms and provisions of § 17.32 apply to such permits issued under the authority of this paragraph (d)(3).

(e) African elephant (*Loxodonta africana*)—(1) *Scope.* The regulations of this paragraph (e) only apply to import and export of raw and worked ivory, however, the import and export of African elephants, including live and dead animals, offspring, and all parts and derivatives are also subject to Parts 14 and 23 of this subchapter.

(2) *Definitions.* For purposes of this paragraph (e):

"Lip mark area" means that area of a whole African elephant tusk where the tusk emerges from the elephant's skull and which is usually denoted by a prominent ring of staining on the tusk in its natural state.

"Raw ivory" means any whole African elephant tusk, polished or unpolished, and in any form whatsoever, and all pieces thereof howsoever changed from its original form, except for worked ivory.

"Worked ivory" means any item made from raw ivory including whole tusks where all or substantially all of the surface has been carved, provided such item is clearly recognizable as jewelry, adornment, art, utility or a musical instrument, and is in a form requiring no further substantial carving, crafting or manufacture to effect its purpose.

(3) *Prohibitions against import; exceptions.* Except as provided below, it is unlawful to import any raw or worked ivory of an African elephant (see paragraph (e)(4) for prohibitions and exceptions on export).

(i) *Import of raw ivory; exception.* The prohibition against import of raw ivory shall not apply to raw ivory that:

(A) Has as its country of origin a country that is at the time of import a Party to the Convention; and

(B) Is imported from a country that is at the time of import a Party to the Convention, under documentation, as required by Part 23 of this subchapter, which clearly shows the country of origin of raw ivory: *Except,* That: raw ivory that transited or was transhipped through a country while remaining under Customs control shall not be considered to be imported from that country; and

(C) Is, where its size and density make it feasible, legibly marked:

(*1*) Under a marking and registration system established by the country of origin, by means of punch-dies, and including the following information: country of origin represented by the two-letters as indicated in the two-letter code established by the International Organization for Standardization (see Appendix A to Chapter I) followed by the registration number assigned to the raw ivory by the country of origin, the last two digits of the year of registration and the weight of the raw ivory to the nearest kilogram (example, KE 127/8214 represents Kenya, registration number 127, year of registration 1982 and weight 14 kilograms); or

(*2*) Under a marking and registration system established by a country of re-export, showing the same information as in paragraph (c)(3)(i)(C)(*1*) of this section, except that the mark shall show the country requiring the marking instead of the country of origin; and

(*3*) In the case of whole tusks, any mark should be placed on the lip mark area and indicated by a flash of color which serves as a background for such mark.

(D) Any mark which substantially supplies the information required in paragraph (e)(3)(i)(C) of this section shall be acceptable.

(E) For a period of 18 months from the effective date of this rule, paragraph (e)(3)(i)(C) of this section shall not apply to raw ivory imported without such a mark if the Service is satisfied by documentary information provided by the importer or by other appropriate means that:

(*1*) The ivory was legally exported from the country of origin; and that

(*2*) The ivory is imported from a country which has certified that it does not require the raw ivory in question to be marked in a manner that would satisfy the marking requirements of paragraph (e)(3)(i)(C) of this section.

(ii) *Imports of worked ivory; exception.* The prohibition against import of worked ivory shall not apply to worked ivory imported from a country that is at the time of import a Party to the Convention: *Except,* That: worked ivory that passed through a country in accordance with Article VII, Paragraph 1 of the Convention (the so-called transit exemption, see 50 CFR 23.13(b)) shall not be considered to be imported from that country.

(4) *Prohibitions against export; exceptions.* Except as provided below, it is unlawful to export any raw ivory of an African elephant (see paragraph (e)(3) of this section for prohibitions and exceptions on import).

(i) *Export of raw ivory; exception for marked ivory.* The prohibition against export of raw ivory shall not apply to raw ivory which was imported bearing a mark meeting the requirements in paragraph (e)(3)(i)(C) of this section and which retains that mark. The export of any pieces of such ivory which fall within the definition of raw ivory may only be exported under a permit issued under paragraph (e)(4)(iii) of this section.

(ii) *Export of raw ivory; exception where marking infeasible.* The prohibition against export of raw ivory shall not apply if the size or density of such ivory makes marking infeasible.

(iii) *Export of raw ivory; permit.* The prohibition against export of raw ivory shall not apply if the ivory is marked pursuant to a permit issued by the Service under the following provisions:

(A) The Director may, upon receipt of an application submitted in accordance with the provisions of this section and §§ 13.11 and 13.12 of this subchapter, issue a permit authorizing the marking and export of raw ivory.

NOTE: This application may be combined with an application to export or re-export the raw ivory as provided for in Part 23 of this subchapter). Applications shall be submitted to the Director by the person who wishes to mark and export the raw ivory. Each application shall be submitted on an offical application form (Form 3-200) provided by the Service. Each application shall contain the general information required by section 13.12(a) of this subchapter, plus the following additional information:

(*1*) Documents or other information showing legal export from the country of origin of the raw ivory;

(*2*) A description of the raw ivory to be marked including the weight to the nearest kilogram and any distinguishing marks or other features on or associated with such ivory; if the raw ivory is in the form of pieces of tusks, weight and description of each piece must be supplied; and

(*3*) Documents or other information showing legal importation of the raw ivory under this subchapter.

(B) Upon receiving a complete application, the Director will decide whether or not a permit shall be issued. In making this decision, the Director shall consider, in addition to the criteria in § 13.21(b) of this subchapter, whether there is sufficient information to: Determine that the country of origin was a Party to CITES at the time of importation into the U.S. and that the ivory was legally exported from that country; describe the raw ivory for purposes of identification; and to establish that the raw ivory was not imported in violation of the regulations of this subchapter.

(C) Each whole tusk or piece or raw ivory must be marked prior to export using the following formula: the two-letter code for the United States (US) followed by a number assigned by the Service and the weight of the raw ivory to the nearest kilogram; and in the case of whole tusks, the mark shall be placed on the lip mark area and indicated by a flash of color which serves as a background for such mark.

(iv) *Export of raw ivory; exception for remarked pieces.* The prohibition against export of raw ivory shall not apply to pieces of raw ivory which were cut from raw ivory imported bearing a mark meeting the requirements in paragraph (e)(3)(i)(C) of this section, provided that each such piece is marked with a repetition of the original mark showing the weight of the piece being exported.

(f) *Leopard.* (1) Except as noted in paragraph (f)(2) of this section, all prohibitions of § 17.31 of this part and exemptions of § 17.32 of this part shall apply to the leopard populations occurring in southern Africa to the south of a line running along the borders of the following countries: Gabon/Rio Muni; Gabon/Cameroon; Congo/Cameroon; Congo/Central African Republic; Zaire/Central African Republic; Zaire/Sudan; Uganda/Sudan; Kenya/Sudan; Kenya/Ethiopia; Kenya/Somalia.

(2) A sport-hunted leopard trophy legally taken after the effective date of this rulemaking, from the area south of the line delineated above, may be imported into the United States without a Threatened Species permit pursuant to § 17.32 of this part, provided that the applicable provisions of 50 CFR Part 23 have been met.

(g) Utah prairie dog (*Cynomys parvidens*). (1) Except as noted in paragraph (g)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 shall apply to the Utah prairie dog.

(2) A Utah prairie dog may be taken under a permit issued by the Utah Division of Wildlife Resources, in accordance with the laws of the State of Utah, in the following areas of Cedar Valley and Parowan Valley, Iron County, Utah (Salt Lake Meridian): T33S R8W, T33S R9W, T34S R8W, T34S R9W, T34S R10W, T34S R11W, T35S R10W, T35S R11W, T36S R11W, T36S R12W, T37S R12W, T38S R12W: Provided, that such taking does not exceed 5,000 animals annually, and that such taking is confined to the period of from June 1 to December 31. The following information must be reported by the State every 90 days to the U.S. Fish and Wildlife Service's Regional Office, Region 6, Denver Federal Center, Denver, Colorado 80225, or to any other address designated by the Service: Name and address of each person holding an active permit; reason for issuance of each permit; number, location, and method of take for all Utah prairie dogs taken during the reporting period; and any other information requested by the Service.

(3) If the Service receives substantive evidence that takings pursuant to paragraph (g)(2) of this section are having an effect that is inconsistent with the conservation of the Utah prairie dog population in the area designated by paragraph (g)(2) of this section, the Service may immediately prohibit or restrict such taking as is appropriate for the conservation of the population.

(4) The information collection requirement contained in paragraph (g)(2) of this section does not require

Office of Management and Budget approval under 44 U.S.C. 3501 *et seq.*, because there are fewer than 10 respondents annually.

(The information collection requirements in paragraph (e)(4)(iii) are approved by Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned control number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. The obligation to respond is required to obtain or retain a permit)

[40 FR 44415, Sept. 26, 1975, as amended at 40 FR 53400, Nov. 18, 1975; 41 FR 19226, May 11, 1976; 41 FR 45994, Oct. 19, 1976; 43 FR 9612, Mar. 9, 1978; 43 FR 20504, May 12, 1978; 47 FR 4211, Jan. 28, 1982; 47 FR 30787, July 15, 1982; 47 FR 31387, July 20, 1982; 48 FR 34761, Aug. 1, 1983; 48 FR 36265, Aug. 10, 1983; 49 FR 22334, May 29, 1984]

EFFECTIVE DATE NOTE: At 50 FR 35088, Aug. 29, 1985, § 17.40(b)(1)(i)(E) was revised, effective August 29, 1985, until April 28, 1986, unless new regulations become effective prior to then. The following "emergency" revison expires April 28, 1986, unless superseded.

§17.40 Special rules—Mammals.

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(b) * * *
(1) * * *
(i) * * *

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(E) *Northwestern Montana.* If it is not contrary to the laws and regulations of the State of Montana, a person may hunt grizzly bears, if such bears are not accompanied by young, in the Flathead National Forest, except that portion of the Forest west of State Highway 83; in the Bob Marshall and Scapegoat Wilderness Areas; and in that portion of the Lewis and Clark National Forest and adjoining lands of the eastern front of the Rocky Mountains with the following boundary: beginning at Badger Pass on the northern boundary of the Bob Marshall Wilderness Area, thence northeastward along a straight line to the head of the North Fork of Birch Creek, thence eastward along said Fork to Swift Dam, thence eastward along Birch Creek to U.S. Highway 89, thence southward along U.S. Highway 89 to Choteau, thence southward along U.S. Highway 287 to the Sun River, thence westward along the Sun River to the eastern boundary of the Bob Marshall Wilderness Area, thence northward along said boundary to the point of beginning: *Provided,* That if in the calendar year 1985, 15 grizzly bears or 6 female grizzly bears have already been killed, for whatever reason, in that part of Montana, exclusive of Glacier National Park, which is bounded on the north by the United States-Canada Border, on the east by U.S. Highway 91, on the south by U.S. Highway 12, and on the west by the Montana-Idaho State line, the Director of the Montana Department of Fish, Wildlife and Parks shall post and publish a notice prohibiting such hunting, and any such hunting for the remainder of 1985 shall be unlawful: *Provided further,* That if in the calendar year 1985, 2 female grizzly bears have already been killed, for whatever reason, in the Flathead National Forest outside of the Bob Marshall Wilderness Area, or in the Bob Marshall and Scapegoat Wilderness Areas, or in that portion of the Lewis and Clark National Forest and adjoining lands of the eastern front of the Rocky Mountains with a boundary as described above, the Director of the Montana Department of Fish, Wildlife and Parks shall post and publish a notice prohibiting such hunting in the area where the 2 female grizzly bears have been killed, and any such hunting in this area for the remainder of 1985 shall be unlawful: *Provided further,* That any taking of a grizzly bear, for whatever reason, in the above-described portion of Montana shall be reported in writing to the United States Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 28006, Washington, D.C. 20005, and to the Montana Department of Fish, Wildlife and Parks, within 5 days after the taking occurs, except that any taking on an Indian reservation within the above-described area shall be so reported only to the United States Fish and Wildlife Service, Division of Law

Enforcement, P.O. Box 28006, Washington, D.C. 20005.

* * * * *

§ 17.41 Special rules--birds.

(a) Bald eagles (*Haliaeetus leucocephalus*) found in Washington, Oregon, Minnesota, Wisconsin, and Michigan.

(1) *Applicable provisions.* The provisions of §§ 17.31 and 17.32 shall apply to bald eagles specified in paragraph (a) of this section to the extent such provisions are consistent with the Bald and Golden Eagles Protection Act (16 U.S.C. 668-668d), the Migratory Bird Treaty Act (16 U.S.C. 703-711), and the regulations issued thereunder.

[43 FR 6233, Feb. 14, 1978]

§ 17.42 Special rules—reptiles.

(a) American alligator (*Alligator mississippiensis*)—(1) *Definitions.* For purpose of this paragraph (a):

"American alligator" shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof occurring:

(i) In captivity wherever found;

(ii) In the wild wherever the species is listed under § 17.11 as Threatened due to similarity of Appearance (T[S/A]); or

(iii) In the wild in the coastal areas of Georgia and South Carolina, contained within the following boundaries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 of Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with South Carolina State Highway 63 south of Walterboro, South Carolina; thence west on State Highway 63 to junction with U.S. Interstate Highway 95; thence south on U.S. Interstate Highway 95 (including incomplete portions) across the South Carolina-Georgia border to junction with U.S. Highway 82 in Liberty County, Georgia; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south on this border to the Florida border and following the Georgia-Florida border eastward to the Atlantic Ocean.

"Buyer" shall mean a person engaged in buying a raw, green, salted, crusted or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

(2) *Prohibitions.* The following prohibitions apply to the American alligator, except as provided by permits available under paragraph (a)(3) of this section.

(i) *Taking.* No person may take any American alligator, except:

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an American alligator without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen;

(*2*) Dispose of a dead specimen;

(*3*) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed in a remote area. Any taking pursuant to this paragraph (a)(2)(i)(A) must be reported in writing to the Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, within five (5) days.

(B) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement with the Service in accordance with section 6(c) of the Act which covers American alligators may, when acting in the course of official duties, take an American alligator to carry out scientific research or conservation programs.

(C) Any person may take an American alligator in the wild wherever listed under § 17.11 as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, subject to the following conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts,

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(D) When an American alligator is taken by Federal or State officials in accordance with paragraph (a)(2)(i) (A) or (B) of this section the hide, meat, and other parts may be sold by their respective agencies, subject to the following conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts.

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any American alligator taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that a hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be imported or exported in accordance with Part 23 of this chapter.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any American alligator, except:

(A) A fully tanned hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be delivered, received, carried, transported, or shipped in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(B) Any meat or other part except the hide from a lawfully taken American alligator which is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs may be delivered, received, carried, transported, or shipped in interstate commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(3) *Permits*—(i) *General.* Permits are available under § 17.32 (Permits—general) for all of the prohibited activities referred to in paragraph (a)(2) of this section. All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) for any of the prohibited activities referred to in paragraph (a)(2) of this section.

(iii) *Buyer or tanner.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer or tanner, authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer or tanner. Each application must be submitted on an official application form (Form 3-200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category or categories (buyer and/or tanner) for which the permit is desired;

(*2*) A description of the applicant's business organization including:

(*i*) The location, mailing address, and description of the physical plant in which the activities under the permit will occur,

(*ii*) Experience with American alligators, if any, over the previous five years,

(*iii*) The names and addresses of all partners, directors, officers, shareholders in a close corporation, or other parties in interest in the business organization identified by their relationship to the business organization,

(*iv*) The name and address of any business organization affiliated with the applicant's business organization;

(*v*) The location where books or records concerning any recordkeeping required by paragraph (a)(3) of this section will be kept.

(*vi*) The location where inventories of American alligator hides and hides of any other species of the Order Crocodilia will be stored, and

(*vii*) The name, address, and telephone number of the person authorized to make books or records, or inventories available for examination by Service officials;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for the following items:

(*i*) All American alligator hides, and

(*ii*) All hides of any other species of the Order Crocodilia;

(*4*) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any partner, director, officer, principal, employee, agent, shareholder in a close corporation, or other party in interest in the business organization or any other business organization affiliated with such business organization.

(*5*) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodilia which at any time have been listed as "Appendix I" in § 23.23 of this chapter, to the extent records of such dealings are available;

(*6*) A foreign applicant must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(*7*) A foreign applicant must provide the name and address of an agent located in the United States upon whom legal process may be served; each applicant must include a certified copy of the power of attorney appointing such an agent and a certified copy of the written consent of such agent so appointed.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a buyer or tanner permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides, and all hides of any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this chapter, each permit issued under paragraph (a)(3)(iii) of this section is subject to the following special conditions:

(*1*) A permittee may not buy or tan any American alligator hide except one which was imported, exported, taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2) of this section;

(*2*) A permittee may sell, offer for sale, deliver, carry, transport, or ship a raw, green, salted, or otherwise untanned American alligator hide only to a holder of a valid Federal permit issued under paragraph (a)(3)(iii) of this section;

(*3*) A permittee may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia;

(*4*) A permittee must maintain complete and accurate inventory control and bookkeeping records in accordance with the provisions of § 13.46 of this chapter for all transactions with American alligators and other species of the Order Crocodilia. For all such transactions, a permittee also must maintain on file a copy of any permit or other document required by Part 23 of this chapter or any other State, Federal, or foreign law;

(*5*) A permittee must file a written report in English with the Director by March 31 of each year concerning all transactions during the preceding calendar year ending December 31 involving American alligators and other species of the Order Crocodilia listed as "Appendix I" in § 23.23 of this chapter (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(*6*) A permittee may not transport or ship any American alligator hide unless a tag or label is affixed to the outside of any package or container used to transport or ship the hide which:

(*i*) Identifies its contents as American alligator,

(*ii*) Indicates the quantity, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter;

(*7*) A buyer and/or tanner must leave the State tag on each hide; and

(*8*) A foreign permittee must maintain an agent in the United States upon whom legal process may be served; in the event of the death or inability to serve, or the resignation or removal of such person, the permittee shall immediately appoint a successor.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section with a live American alligator which has been born in captivity or lawfully placed in captivity.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a). In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligator for which a permit is sought has been held in captivity and was either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* Each permit issued under this paragraph (a)(3)(iv) is subject to the general conditions set forth in Part 13 of this chapter. In addition, any permit which authorizes the taking of an American alligator is subject to the following special conditions:

(*1*) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(*2*) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(*3*) The hide is tagged by the State where held in captivity with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State;

(*5*) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts,

(*ii*) Indicates the quantity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(*6*) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this chapter concerning any taking of, or transaction involving, an American alligator; and

(*7*) The permittee must file a written report with the Director by March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

(b) Green sea turtle (*Chelonia mydas*), loggerhead sea turtle (*Caretta caretta*), olive ridley sea turtle (*Lepidochelys olivacea*) (these do not include the populations listed as endangered in § 17.11).

(1) *Prohibitions.* Subject to the permits allowable under the following paragraph (b)(2) of this section, all of the provisions set forth in § 17.31 (which incorporate portions of § 17.21) shall apply to this wildlife with the following exceptions:

(i) Section 17.21(c)(2) (self-defense) is not applicable.

(ii) In § 17.21(c)(3)(i), the word "orphaned" is replaced by the word "stranded."

(iii) Delete § 17.21(c)(3)(iv) (Wildlife threatening human safety).

(iv) [Reserved]

(v) The prohibition against taking shall not apply to incidental catches, as specified in 50 CFR 227.72(e).

(vi) The prohibition against taking within the United States or the territorial sea of the United States shall not apply to subsistence taking, as specified in 50 CFR 227.72(f).

(2) *Permits*. (i) For those activities which come under the jurisdiction of the Service, only permits for scientific purposes, enhancement of propagation or survival, zoological exhibition or educational purposes, are available under § 17.32. Procedures for issuance of permits are found in § 17.32 and, for those activities which come under the jurisdiction of the National Marine Fisheries Service, Subpart E of Part 220. All the provisions of § 17.32 apply to permits issued by the Service.

[42 FR 2076, Jan. 10, 1977, as amended at 43 FR 32809, July 28, 1978; 44 FR 59084, Oct. 12, 1979; 45 FR 17589, Mar. 19, 1980; 45 FR 78154, Nov. 25, 1980; 48 FR 46336, Oct. 12, 1983; 50 FR 25678, June 20, 1985]

§ 17.43 Special rules—amphibians.

(a) San Marcos salamander (*Eurycea nana*). (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

[40 FR 44415, Sept. 26, 1975, as amended at 45 FR 47363, July 14, 1980]

§ 17.44 Special rules—fishes.

(a) Lahontan cutthroat trout, Paiute cutthroat trout, and Arizona trout (*Salmo clarki henshawi, Salmo clarki seleniris*, and *Salmo apache*). (1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Violation of State law will also be a violation of the Act.

(b) Bayou darter (*Etheostoma rubrum*). (1) All the provisions of § 17.31 apply to this species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(c) Slender chub (*Hybopsis cahni*), spotfin chub (*Hybopsis monacha*), slackwater darter (*Etheostoma boschungi*), and yellowfin madtom (*Noturus flavipinnis*).

(1) All the provisions of § 17.31 apply to these species, except that they may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(d) Leopard darter (*Percina pantherina*). (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(e) Little Kern golden trout (*Salmo aguabonita whitei*). (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(f) Greenback cutthroat trout (*Salmo clarki stomias*). (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Act.

(g) Chihuahua chub, *Gila nigrescens*. (1) All provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State law.

(2) Any violation of State law will also be a violation of the Endangered Species Act.

(h) Yaqui catfish (*Ictalurus pricei*) and beautiful shiner (*Notropis formosus*). (1) All provisions of § 17.31 apply to these species, except that they may be taken for educational, scientific, or conservation purposes in accordance with applicable Arizona State laws and regulations.

(2) Any violation of State law will also be a violation of the Endangered Species Act.

(i) Big Spring spinedace, *Lepidomeda mollispinis pratensis*. (1) All the provisions of § 17.31 apply to this species, except that it may be taken in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to this species will also be a violation of the Endangered Species Act.

(j) Hutton tui chub (*Gila bicolor* subspecies) and Foskett speckled dace (*Rhinichthys osculus* subspecies). (1) No person shall take these species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of these species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (j) (1) through (3) of this section.

(k) Niangua Darter, *Etheostoma nianguae*. (1) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (k) (1) through (3) of this section.

(l) Warner sucker (*Catostomus warnerensis*). (1) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act;

(ii) Incidental to State-permitted recreational fishing activities, provided that the individual fish taken is immediately returned to its habitat.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (l) (1) through (3) of this section.

[40 FR 44415, Sept. 26, 1975, as amended at 42 FR 45528, Sept. 9, 1977; 43 FR 3715, Jan. 27, 1978; 43 FR 15429, Apr. 13, 1978; 43 FR 16345, Apr. 18, 1978; 48 FR 46057, Oct. 11, 1983; 49 FR 34497, Aug. 31, 1984; 50 FR 12302 and 12306, Mar. 28, 1985; 50 FR 24653, June 12, 1985; 50 FR 33951, Aug. 22, 1985; 50 FR 39122, Sept. 27, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39122, Sept. 27, 1985, § 17.44(l) was added, effective October 28, 1985.

§ 17.45 Special rules—snails and clams. [Reserved]

§ 17.46 Special rules—crustaceans.

(a) Madison Cave isopod (*Antrolana lira*). (1) All provisions of § 17.31 (a) and (b) apply to this species except that it may be taken for scientific purposes without Federal permits issued pursuant to these regulations: *Provided*, that all other Federal, State, or local laws, regulations, ordinances or other restrictions or limitations have been complied with.

[47 FR 43701, Oct. 4, 1982]

§ 17.47 [Reserved]

§ 17.48 Special rules—common sponges and other forms. [Reserved]

Subpart E—Similarity of Appearance

SOURCE: 42 FR 32377, June 24, 1977, unless otherwise noted.

§ 17.50 General.

(a) Whenever a species which is not Endangered or Threatened closely resembles an Endangered or Threatened species, such species may be treated as either Endangered or Threatened if the director makes such determination in accordance with section 4(e) of the Act and the criteria of paragraph (b) of this section. After the Director has made such determination in accordance with the notification procedures specified in the Act, such species shall appear in the list in § 17.11 (Wildlife) or § 17.12 (Plants) with the notation "(S/A)" (similarity of appearance) in the "Status" column, following either a letter "E" or a letter "T" to indicate whether the species is being treated as Endangered or Threatened.

(b) In determining whether to treat a species as Endangered or Threatened due to similarity of appearance, the Director shall consider the criteria in section 4(e) of the Act, as indicated below:

(1) The degree of difficulty enforcement personnel would have in distinguishing the species, at the point in question, from an Endangered or Threatened species (including those cases where the criteria for recognition of a species are based on geographical boundaries);

(2) The additional threat posed to the Endangered or Threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The probability that so designating a similar species will substantially facilitate enforcement and further the purposes and policy of the Act.

Example 1. The ABC sparrow is Endangered wildlife. The ABD sparrow is a subspecies that is so similar to the ABC sparrow that when found outside their normal habitat, the two cannot readily be distinguished by law enforcement personnel. The ABD sparrow is listed in § 17.11, after following the proper procedures as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow	*ABCus*	NA	North America	Entire	E	7	NA
ABD sparrow	*ABDus*	NA	do	NA	E(S/A)	7	NA

Example 2. Suppose the ABC sparrow is listed as Endangered in only a portion of its range. Within the meaning of the Act, the ABC sparrow as defined by geographic boundaries is a species. The ABC sparrow which occurs beyond those boundaries is a different species, even though it is identical, except in location, to the listed species. If the criteria of this section were met, the two species would be listed as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow	*ABCus*	Idaho	Idaho	Entire	E	7	NA
Do	do	NA	United States	NA	E(S/A)	7	NA

Example 3. The XY cactus has been determined to be an Endangered species. The XZ cactus so closely resembles the XY cactus that enforcement personnel cannot distinguish between the two. The Endangered XY cactus could be illegally sold as the non-endangered XZ species, thus posing an additional threat to the Endangered species. After following the proper procedures, the XZ cactus would be placed on the list and treated as though it was an Endangered species. This entry would appear as follows:

SPECIES AND RANGE

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
XY*um*	XY cactus	Arizona	Entire		E	7	NA
XZ*um*	do	Arizona and Mexico.	NA		E(S/A)	8	NA

§ 17.51 Treatment as endangered or threatened.

(a) Any species listed in § 17.11 or § 17.12, pursuant to § 17.50, shall be treated as Endangered or Threatened, as indicated in the "Status" column.

(b) All of the provisions of Subparts C (Endangered Wildlife), D (Threatened Wildlife), F (Endangered Plants) or G (Threatened Plants), as appropriate, shall apply to any such species.

§ 17.52 Permits—similarity of appearance.

Upon receipt of a complete application and unless otherwise indicated in a special rule, the Director may issue permits for any activity otherwise prohibited with a species designated as Endangered or Threatened due to its similarity of appearance. Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce of plants must be obtained by the seller; in the case of wildlife, the permit must be obtained by the buyer. The application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. It must include, as an attachment, all of the following information: Documentary evidence, sworn affidavits, or other information to show species identification and the origin of the wildlife or plant in question. This information may be in the form of hunting licenses, hide seals, official stamps, export documents, bills of sales, certification, expert opinion, or other appropriate information.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria, in § 13.21(b) of this subchapter, the following factors:

(1) Whether the information submitted by the applicant appears reliable;

(2) Whether the information submitted by the applicant adequately identifies the wildlife or plant in question so as to distinguish it from any Endangered or Threatened wildlife or plant.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the wildlife or plant, and remain for the time designated in the permit;

(2) A copy of the permit or an identification label, which includes the scientific name and the permit number, must accompany the wildlife or plant or its container during the course of any activity subject to these regulations.

(d) *Duration of permits.* The duration of a permit issued under this section shall be designated on the face of the permit.

Subpart F—Endangered Plants

§ 17.61 Prohibitions.

(a) Except as provided in a permit issued pursuant to § 17.62 or § 17.63, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (e) of this section in regard to any Endangered plant.

(b) *Import or export.* It is unlawful to import or to export any Endangered plant. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Remove and reduce to possession.* (1) It is unlawful to remove and reduce to possession any endangered plant from an area under Federal jurisdiction.

(2) Notwithstanding paragraph (c)(1) of this section, any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession endangered plants from areas under Federal jurisdiction without a permit if such action is necessary to:

(i) Care for a damaged or diseased specimen;

(ii) Dispose of a dead specimen; or

(iii) Salvage a dead specimen which may be useful for scientific study.

(3) Any removal and reduction to possession pursuant to paragraph (c)(2) of this section must be reported in writing to the U.S. Fish and Wildlife Service, Division of Law Enforcement, P.O. Box 28006, Washington, D.C. 20005, within 5 days. The specimen may only be retained, disposed of, or salvaged in accordance with written directions from the Service.

(4) Notwithstanding paragraph (c)(1) of this section, any qualified employee or agent of a State conservation agency which is a party to a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession from areas under Federal jurisdiction those endangered plants which are covered by an approved cooperative agreement for conservation programs in accordance with the Cooperative Agreement, provided that such removal is not reasonably anticipated to result in:

(i) The death or permanent damage of the specimens;

(ii) The removal of the specimen from the State where the removal occurred; or

(iii) The introduction of the specimen so removed, or of any propagules derived from such a specimen, into an area beyond the historical range of the species.

(d) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, an endangered plant.

(e) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered plant.

(2) An advertisement for the sale of any endangered plant which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service, shall not be considered an offer for sale within the meaning of this paragraph.

[44 FR 54060, Sept. 18, 1979, as amended at 50 FR 39690, Sept. 30, 1985]

Effective Date Note: At 50 FR 39690, Sept. 30, 1985, § 17.61 was amended, effective October 30, 1985, by changing the reference in paragraph (a) from "(d)" to "(e)", by adding a new paragraph (c) and redesignating old (c) and (d) as new (d) and (e), respectively.

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

Upon receipt of a complete application the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with the issuance criteria of this section, for scientific purposes or for enhancing the propagation or survival of endangered plants. (See § 17.72 for permits for threatened plants.) Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce must be obtained by the seller if the plants are derived from cultivated stock, and by the buyer if the plants are taken from the wild. The application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. Requirements differ for the issuance of a permit for activities dealing with plants obtained from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. The applicant must provide in an attachment the information required below and any other information that is requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) The estimated number of specimens sought to be covered by the permit;

(iii) The year, country, and approximate place where taking occurred or will occur;

(iv) If the activities would involve removal and reduction to possession of a plant from an area under Federal jurisdiction, the year, State, county, or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area, and the name, title, address, and phone number of the person in charge of the area.

(v) The name and address of the institution or other facility where the plant sought to be covered by the permit will be used or maintained;

(vi) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(vii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts; and

(viii) A statement of the reasons why the applicant is justified in obtaining the permit, including:

(A) The activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(B) The planned disposition of such plant upon termination of the activities sought to be authorized.

(2) For activities involving seeds and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts;

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(iv) If the activities would involve seeds obtained from the wild, additional information to evaluate the effects of such taking upon the reproductive potential of the species where the taking will occur.

(v) If the activities would involve removal and reduction to possession of seeds from an area under Federal jurisdiction, the year, State, county or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area and the name, title, address, and phone number of the person in charge of the area.

(3) For importation or exportation involving the non-commercial loan, exchange, or donation of herbarium or other preserved, dried, or embedded museum specimens of any endangered

species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species.

(iii) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(4) If the activity sought to be authorized is with a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements as indicated in § 23.15(c) of this subchapter must be met. For the convenience of the applicant, § 23.15(c) is repeated here:

> Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.
>
> (1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II, or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);
>
> (2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;
>
> (3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;
>
> (4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;
>
> (5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;
>
> (6) The country and place where the wildlife or plant was or is to be taken from the wild;
>
> (7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and
>
> (8) Copies of documents, sworn affidavits or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity or artifically propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is a herbarium specimen, other preserved, dried or embedded museum specimen, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of "wild origin" or "cultivated origin" must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this section.

(3) In the case of plants that are herbarium specimens, or other preserved, dried or embedded museum specimens to be imported or exported as a noncommercial loan, exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as "herbarium specimens" and the code letters assigned by the Service to the scientists or scientific institution must be entered on the Customs declaration form affixed to each package or container. If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the letters "CITES" (acronym for the Convention) also must be entered on the Customs declaration form, as indicated in § 23.15(e)(3) of this subchapter.

(d) *Duration of permit* The duration of a permit issued under this section shall be designated on the face of the permit.

[44 FR 54060, Sept. 18, 1979, as amended at 50 FR 39690, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39690, Sept. 30, 1985, § 17.62 was amended by redesignating paragraphs (a)(1)(iv) through (a)(1)(vii) as paragraphs (a)(1)(v) through (a)(1)(viii) and by adding new paragraphs (a)(1)(iv), (a)(2)(v), and (a)(3)(iii), effective October 30, 1985.

§ 17.63 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with Section 10(b) of the Act and the issuance criteria of this section, in order to prevent undue economic hardship. No such exemption may be granted for the importation or exportation of a species also listed in Appendix I of the Convention on International Trade in endangered Species of Wild Fauna and Flora, if the specimen would be used in a commercial activity.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited. The application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. It must include, as an attachment, all of the information required in § 17.62 plus the following additional information.

(1) The possible legal or economic alternatives to the activity sought to be authorized by the permit.

(2) A full statement, accompanied by copies of all relevant correspondence, showing the applicant's involvement with the plant sought to be covered by the permit (as well as his involvement with similar plants). The applicant should include information on that portion of his income derived from activities involving such plants in relation to the balance of his income during the calendar year immediately preceding either the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list

the species as Endangered, whichever is earlier.

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit;

(ii) Became binding prior to the date of the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued for economic hardship, as defined in section 10(b) of the Act. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will significantly affect the survival of the species in the wild;

(2) The economic, legal, or other alternatives or relief available to the applicant;

(3) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit; and

(ii) Became binding prior to the date of the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier;

(4) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(3) of this section would cause if the permit were denied;

(5) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section may be subject to any of the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) If requested, the permittee shall report to the Service's office designated in the permit the death, destruction or loss of all living plants covered by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit. No permit issued under this section shall be valid for more than one year from the date of a FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier.

[44 FR 54060, Sept. 18, 1979]

Subpart G—Threatened Plants

§ 17.71 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this subpart, all of the provisions in § 17.61 shall apply to Threatened plants, with the following exception. Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of § 17.61, provided that a statement that the seeds are of "cultivated origin" accompanies the seeds or their container during the course of any activity otherwise subject to these regulations.

(b) In addition to any provisions of this Part 17, any employee or agent of the Service or of a State Conservation Agency which is operating a conservation program pursuant to the terms of a Cooperative Agreement with the Service in accordance with section 6(c) of the Act, who is designated by that agency for such purposes, may, when acting in the course of official duties, remove and reduce to possession from areas under Federal jurisdiction those threatened species of plants which are covered by an approved Cooperative Agreement to carry out conservation programs.

(c) Whenever a special rule in §§ 17.73 to 17.78 applies to a threatened species, none of the provisions of paragraph (a) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions. If indicated by special rule, the exception for seeds in paragraph (a) of this section shall not apply to the threatened species.

[42 FR 32380, June 24, 1977, as amended at 50 FR 39691, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39391, Sept. 30, 1985, § 17.71 was amended by redesignating paragraph (b) as (c) and adding a new (b), effective October 30, 1985.

§ 17.72 Permits—general.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened plants. The permit shall be governed by the provisions of this section unless a special rule applicable to the plant is provided in §§ 17.73 to 17.78. A permit issued under this section must be for one of the following: scientific purposes, the enhancement of the propagation or survival of threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act. Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce must be obtained by the seller if the plants are derived from cultivated stock, and by the buyer if the plants are taken from the wild. The application must be submitted on an official application form (Form 3-200) provided by the Service or must contain the general information and certification required by § 13.12(a) of this subchapter. Requirements differ for the issuance of a permit for activities dealing with plants obtained from the wild (excluding seeds), seeds obtained from the wild and cultivated plants, or herbarium specimens. The applicant must provide in an attachment the information required below and any other information that is requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) The estimated number of specimens sought to be covered by the permit;

(iii) The year, country, and approximate place where taking occurred or will occur;

(iv) If the activities would involve removal and reduction to possession of a plant from an area under Federal jurisdiction, the year, State, county or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area and the name, title, address, and phone number of the person in charge of the area.

(v) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(vi) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act; and

(vii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts.

(2) For activities involving seeds obtained from the wild and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts; and

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(iv) If the activities would involve removal and reduction to possession of seeds from an area under Federal jurisdiction, the year, State, county, or any other description such as place name, township, and range designation that will precisely place the location where the proposed removal and reduction to possession will occur, the name of the Federal entity having jurisdiction over the area and the name, title, address, and phone number of the person in charge of the area.

(3) For importation or exportation involving the non-commercial loan, exchange or donation of herbarium or other preserved, dried or embedded museum specimens of all threatened species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(iii) The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned Clearance Number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications and make decisions, according to criteria established in various Federal wildlife and plant conservation statutes and regulations, on the issuance or denial of permits. The obligation to respond is required to obtain or retain a permit.

(4) If the activity sought to be authorized is with a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements as indicated in § 23.15(c) of this subchapter must be met. For the convenience of the applicant, § 23.15(c) is repeated here:

> Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the Activity. Each application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.
>
> (1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);
>
> (2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;
>
> (3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;
>
> (4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;
>
> (5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;
>
> (6) The country and place where the wildlife or plant was or is to be taken from the wild;
>
> (7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(3) Copies of documents, sworn affidavits, or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity, or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, other preserved, dried, or embedded museum specimen, or live plant material to be imported, exported, or re-exported as a noncommercial loan, donation, or exchange between scientists or scientific institutions.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of "wild orgin" or "cultivated origin" must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this section.

(3) In the case of plants that are herbarium specimens, or other preserved, dried, or embedded museum specimens to be imported or exported as a noncommercial loan exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as "herbarium specimens" and the code letters assigned by the Service to the scientist or scientific institution must be entered on the Customs declaration form affixed to each package or container. If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the letters "CITES" (acronym for the convention) also must be entered on the Customs declaration form as indicated in § 23.15(e)(3) of this subchapter.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit.

[42 FR 32380, June 24, 1977, as amended at 50 FR 39691, Sept. 30, 1985]

EFFECTIVE DATE NOTE: At 50 FR 39691, Sept. 30, 1985, § 17.72 was amended by redesignating paragraphs (a)(1)(iv) through (a)(1)(vi) as paragraphs (a)(1)(v) through (a)(1)(vii) and by adding new paragraphs (a)(1)(iv), (a)(2)(iv), and (a)(3)(iii), effective October 30, 1985.

§§ 17.73–17.78 [Reserved]

Subpart H—Experimental Populations

SOURCE: 49 FR 33893, Aug. 27, 1984, unless otherwise noted.

§ 17.80 Definitions.

(a) The term "experimental population" means an introduced and/or designated population (including any offspring arising solely therefrom) that has been so designated in accordance with the procedures of this subpart but only when, and at such times as the population is wholly separate geographically from nonexperimental populations of the same species. Where part of an experimental population overlaps with natural populations of the same species on a particular occasion, but is wholly separate at other times, specimens of the experimental population will not be recognized as such while in the area of overlap. That is, experimental status will only be recognized outside the areas of overlap. Thus, such a population shall be treated as experimental only when the times of geographic separation are reasonably predictable; *e.g.*, fixed migration patterns, natural or man-made barriers. A population is not treated as experimental if total separation will occur solely as a result of random and unpredictable events.

(b) The term "essential experimental population" means an experimental population whose loss would be likely to appreciably reduce the likelihood of the survival of the species in the wild. All other experimental populations are to be classified as "nonessential."

§ 17.81 Listing.

(a) The Secretary may designate as an experimental population a population of endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historic range, absent a finding by the Director in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed), subject to the further conditions specified in this section; *provided*, that all designations of experimental populations must proceed by regulation adopted in accordance with 5 U.S.C. 553 and the requirements of this subpart.

(b) Before authorizing the release as an experimental population of any population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Secretary must find by regulation that such release will further the conservation of the species. In making such a finding the Secretary shall utilize the best scientific and commercial data available to consider:

(1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere;

(2) The likelihood that any such experimental population will become established and survive in the foreseeable future;

(3) The relative effects that establishment of an experimental population will have on the recovery of the species; and

(4) The extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area.

The Secretary may issue a permit under section 10(a)(1)(A) of the Act, if appropriate under the standards set out in subsections 10(d) and (j) of the Act, to allow acts necessary for the establishment and maintenance of an experimental population.

(c) Any regulation promulgated under paragraph (a) of this section shall provide:

(1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s);

(2) A finding, based solely on the best scientific and commerical data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild;

(3) Management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations; and

(4) A process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species.

(d) The Fish and Wildlife Service shall consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. When appropriate, a public meeting will be conducted with interested members of the public. Any regulation promulgated pursuant to this section shall, to the maximum extent practicable, represent an agreement between the Fish and Wildlife Service, the affected State and Federal agencies and persons holding any interest in land which may be affected by the establishment of an experimental population.

(e) Any population of an endangered species or a threatened species determined by the Secretary to be an experimental population in accordance with this subpart shall be identified by special rule in §§ 17.84—17.86 as appropriate and separately listed in § 17.11(h) (wildlife) or § 17.12(h) (plants) as appropriate.

(f) The Secretary may designate critical habitat as defined in section (3)(5)(A) of the Act for an essential experimental population as determined pursuant to paragraph (c)(2) of this section. Any designation of critical habitat for an essential experimental population will be made in accordance with section 4 of the Act. No designation of critical habitat will be made for nonessential populations. In those situations where a portion or all of an essential experimental population overlaps with a natural population of the species during certain periods of the year, no critical habitat shall be designated for the area of overlap unless implemented as a revision to critical habitat of the natural population for reasons unrelated to the overlap itself.

§ 17.82 Prohibitions.

Any population determined by the Secretary to be an experimental population shall be treated as if it were listed as a threatened species for purposes of establishing protective regulations under section 4(d) of the Act with respect to such population. The Special rules (protective regulations) adopted for an experimental population under § 17.81 will contain applicable prohibitions, as appropriate, and exceptions for that population.

§ 17.83 Interagency cooperation.

(a) Any experimental population designated for a listed species (1) determined pursuant to § 17.81(c)(2) of this subpart not to be essential to the survival of that species and (2) not occurring within the National Park System or the National Wildlife Refuge System, shall be treated for purposes of section 7 (other than subsection (a)(1) thereof) as a species proposed to be listed under the Act as a threatened species.

(b) Any experimental population designated for a listed species that either (1) has been determined pursuant to § 17.81(c)(2) of this subpart to be essential to the survival of that species, of (2) occurs within the National Park System or the National Wildlife Refuge System as now or hereafter constituted, shall be treated for purposes of section 7 of the Act as a threatened species. Notwithstanding the foregoing, any biological opinion prepared pursuant to section 7(b) of the Act and any agency determination made pursuant to section 7(a) of the Act shall consider any experimental and nonexperimental populations to constitute a single listed species for the purposes of conducting the analyses under such sections.

§ 17.84 Special rules—vertebrates.

(a) Delmarva Peninsula fox squirrel (*Sciurus niger cinereus*)—(1) The Delmarva Peninsula fox squirrel population identified in paragraph (a)(6) of this section is a nonessential experimental population.

(2) No person shall take this species, except:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act and in accordance with applicable State fish and wildlife conservation laws and regulations; or

(ii) Incidental to recreational activities.

(3) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species (other than incidental taking as described in paragraph

(a)(2)(ii) of this section) will also be a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife laws or regulations or the Endangered Species Act.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraph (a)(2) or (4) of this section.

(6) The site for reintroduction of Delmarva Peninsula fox squirrel is totally isolated from existing populations of this species. The nearest extant population is in the Chincoteague National Wildlife Refuge approximately 50 miles from the reintroduction site. The reintroduction site is within the historic range of this species and is located at the Assawoman Wildlife Area, Sussex County, Delaware. Observation of previous releases have shown that fox squirrels have not traveled more than 2 or 3 miles from release sites, therefore, the possibility of this population contacting extant wild populations is unlikely.

(7) The reintroduced population will be checked periodically to determine its condition and the success of the reintroduction. Of special concern will be the establishment of breeding pairs and the reproductive success of the population. The movement patterns of the released individuals and the overall health of the population will also be observed.

(b) Colorado squawfish (*Ptychocheilus lucius*) and woundfin (*Plagopterus argentissimus*). (1) The Colorado squawfish and woundfin populations identified in paragraph (b)(6) below are experimental, nonessential populations.

(2) No person shall take the species, except in accordance with applicable State or Tribal fish and wildlife conservation laws and regulations in the following instances:

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act; or

(ii) Incidental to otherwise lawful activities, provided that the individual fish taken, if still alive, is immediately returned to its habitat.

(3) Any violation of applicable State or Tribal fish and wildlife conservation laws or regulations with respect to the taking of this species (other than incidental taking as described in paragraph (b)(2)(ii) of this section) will also be a violation of the Endangered Species Act.

(4) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State or Tribal fish and wildlife laws or regulations.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (b) (2) through (4) of this section.

(6) All of the sites for reintroduction of Colorado squawfish and woundfin are totally isolated from existing populations of these species. The nearest population of Colorado squawfish is above Lake Powell in the Green and Colorado Rivers, an upstream distance of at least 800 miles including 6 mainstream dams, and 200 miles of dry riverbed. Woundfin are similarly isolated (450 miles distant, 200 miles of dry streambed and 5 mainstream dams). All reintroduction sites are within the probable historic range of these species and are as follows:

Colorado Squawfish

(i) *Arizona: Gila County.* Salt River from Roosevelt Dam upstream to U.S Highway 60 bridge.

(ii) *Arizona: Gila and Yavapai Counties.* Verde River from Horseshoe Dam upstream to Perkinsville.

The lower segments of large streams which flow into these two sections of river may, from time to time, be inhabited by Colorado squawfish. Downstream movement of squawfish in these areas will be restricted by dams and upstream movement is limited by lack of suitable habitat.

Woundfin

(i) *Arizona: Gila and Yavapai Counties.* Verde River from backwaters of Horseshoe Reservoir upstream to Perkinsville.

(ii) *Arizona: Graham and Greenlee Counties.* Gila River from backwaters of San Carlos Reservoir upstream to Arizona/New Mexico State line.

(iii) *Arizona: Greenlee County.* San Francisco River from its junction with the Gila River upstream to the Arizona/New Mexico State line.

(iv) *Arizona: Gila County.* Tonto Creek, from Punkin Center upstream to Gisela.

(v) *Arizona: Yavapai County.* Hassayampa River, from Red Cliff upstream to Wagoner. The movement of woundfin beyond these areas will be limited to the lower portion of larger tributaries where suitable habitat exists. Downstream movement is limited by dams, reservoirs, and dry streambed. Upstream movement from these areas is restricted due to the absence of habitat. Upstream areas are too cold and the gradient is too steep to support populations of woundfin.

(7) The reintroduced populations will be checked annually to determine their condition. A seining survey will be used to determine population expansion or contraction, reproduction success, and general health condition of the fish.

[49 FR 35954, Sept. 13, 1984, and 50 FR 30194, July 24, 1985]

§ 17.85 Special rules—invertebrates. [Reserved]

§ 17.86 Special rules—plants. [Reserved]

Subpart I—Interagency Cooperation

§ 17.94 Critical habitats.

(a) The areas listed in § 17.95 (fish and wildlife) and § 17.96 (plants) and referred to in the lists at §§ 17.11 and 17.12 have been determined by the Director to be Critical Habitat. All Federal agencies must insure that any action authorized, funded, or carried out by them is not likely to result in the destruction or adverse modification of the constituent elements essential to the conservation of the listed species within these defined Critical Habitats. (See Part 402 for rules concerning this prohibition; see also Part 424 for rules concerning the determination of Critical Habitat).

(b) The map provided by the Director does not, unless otherwise indicated, constitute the definition of the boundaries of a Critical Habitat. Such maps are provided for reference purposes to guide Federal agencies and other interested parties in locating the general boundaries of the Critical Habitat. Critical Habitats are described by reference to surveyable landmarks found on standard topographic maps of the area and to the States and county(ies) within which all or part of the Critical Habitat is located. Unless otherwise indicated within the Critical Habitat description, the State and county(ies) names are provided for informational purposes only.

(c) Critical Habitat management focuses only on the biological or physical constituent elements within the defined area of Critical Habitat that are essential to the conservation of the species. Those major constituent elements that are known to require special management considerations or protection will be listed with the description of the Critical Habitat.

(d) The sequence of species within each list of Critical Habitats in §§ 17.95 and 17.96 will follow the sequences in the lists of Endangered and Threatened wildlife (§ 17.11) and plants (§ 17.12). Multiple entries for each species will be alphabetic by State.

[45 FR 13021, Feb. 27, 1980]

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

INDIANA BAT (*Myotis sodalis*)

Illinois. The Blackball Mine, La Salle County.

Indiana. Big Wyandotte Cave, Crawford County; Ray's Cave, Greene County.

Kentucky. Bat Cave, Carter County; Coach Cave, Edmonson County.

Missouri. Cave 021, Crawford County; Cave 009, Franklin County; Cave 017, Franklin County; Pilot Knob Mine, Iron County; Bat Cave, Shannon County; Cave 029, Washington County (numbers assigned by Division of Ecological Services, U.S. Fish and Wildlife Service, Region 6).

Tennessee. White Oak Blowhole Cave, Blount county.

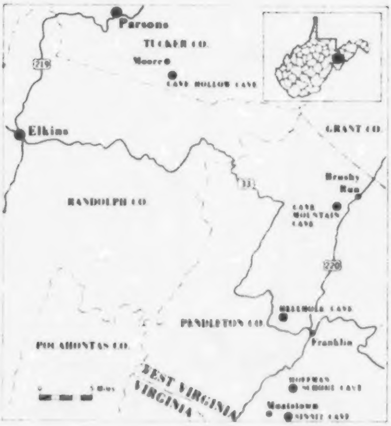
West Virginia. Hellhole Cave, Pendleton County.

NOTE: No map.

VIRGINIA BIG-EARED BAT (*Plecotus townsendii virginianus*)

West Virginia. Cave Mountain Cave, Hellhole Cave, Hoffman School Cave, and Sinnit Cave, each in Pendleton County; Cave Hollow Cave, Tucker County.

NOTE: Map follows:



FLORIDA MANATEE (*Trichechus manatus*)

Florida. Crystal River and its headwaters known as King's Bay, Citrus County; the Little Manatee River downstream from the U.S. Highway 301 bridge, Hillsborough County; the Manatee River downstream from the Lake Manatee Dam, Manatee County; the Myakka River downstream from Myakka River State Park, Sarasota and Charlotte Counties; the Peace River downstream from the Florida State Highway 760 bridge, De Soto and Charlotte Counties; Charlotte Harbor north of the Charlotte-Lee County line, Charlotte County; Caloosahatchee River downstream from the Florida State Highway 31 bridge, Lee County; all U.S. territorial waters adjoining the coast and islands of Lee County; all U.S. territorial waters adjoining the coast and islands and all connected bays, estuaries, and rivers from Gordon's Pass, near Naples, Collier County, southward to and including Whitewater Bay, Monroe County; all waters of Card, Barnes, Blackwater, Little Blackwater, Manatee, and Buttonwood Sounds between Key Largo, Monroe County, and the mainland of Dade County; Biscayne Bay, and all adjoining and connected lakes, rivers, canals, and waterways from the southern tip of Key Biscayne northward to and including Maule Lake, Dade County; all of Lake Worth, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway A1A southward to its southernmost point immediately north of the town of Boynton Beach, Palm Beach County; the Loxahatchee River and its headwaters, Martin and West Palm Beach Counties; that section of the intracoastal waterway from the town of Seawalls Point, Martin County to Jupiter Inlet, Palm Beach County; the entire inland section of water known as the Indian River, from its northernmost point immediately south of the intersection of U.S. Highway 1 and Florida State Highway 3, Volusia County, southward to its southernmost point near the town of Seawalls Point, Martin County, and the entire inland section of water known as the Banana River and all waterways between Indian and Banana Rivers, Brevard County; the St. Johns River including Lake George, and including Blue Springs and Silver Glen Springs from their points of origin to their confluences with the St. Johns River; that section of the Intracoastal Waterway from its confluences with the St. Marys River on the Georgia-Florida border to the Florida State Highway A1A bridge south of Coastal City, Nassau and Duval Counties.

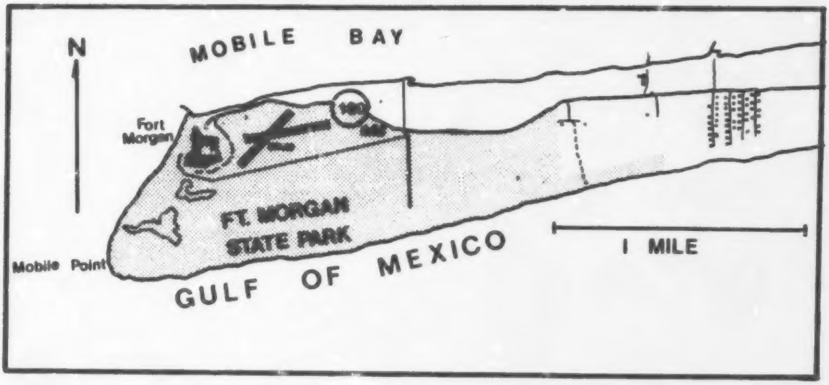
NOTE: No map.

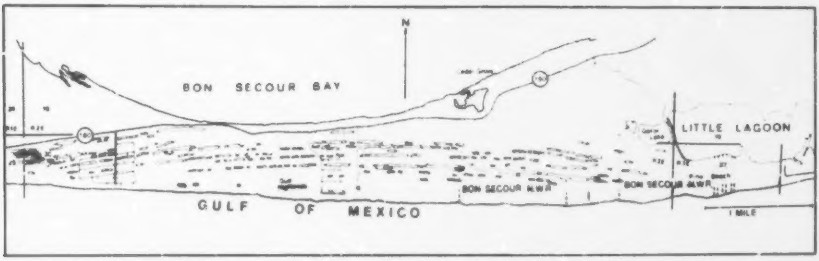
ALABAMA BEACH MOUSE (*Peromyscus polionotus ammobates*)

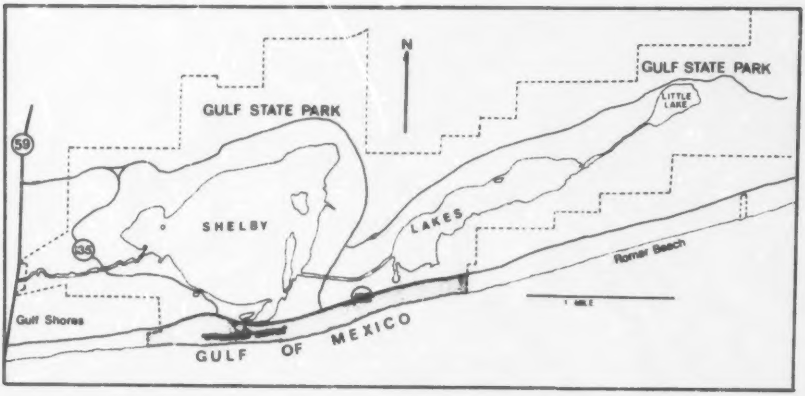
Alabama. Areas of land, water, and airspace in Baldwin County with the following components (St. Stephens Meridian): (1) That portion of the Fort Morgan Peninsula south of State Road 180 and west of 87°59′35″ W, except for that part each of Fort Morgan State Park and more than 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico; (2) those portions of T9S R3E Sec. 30 and T9S R2E Sec. 25-28 and E15/16 Sec. 29 extending 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico; (3) that portion of the Gulf Shores unit of the Gulf State Park south of State Road 182 in T9S R4E Sec. 14-15 and Sec. 21-23.

Within these areas the major constituent elements that are known to require special management consideratons or protection are dunes and interdunal areas, and associated grasses and shrubs that provide food and cover.

NOTE: Maps follow:


N
MOBILE BAY
Fort Morgan
180
FT. MORGAN STATE PARK
Mobile Point
GULF OF MEXICO
1 MILE


N
BON SECOUR BAY
180
LITTLE LAGOON
BON SECOUR NWR
BON SECOUR NWR
Pine Beach
GULF OF MEXICO
1 MILE

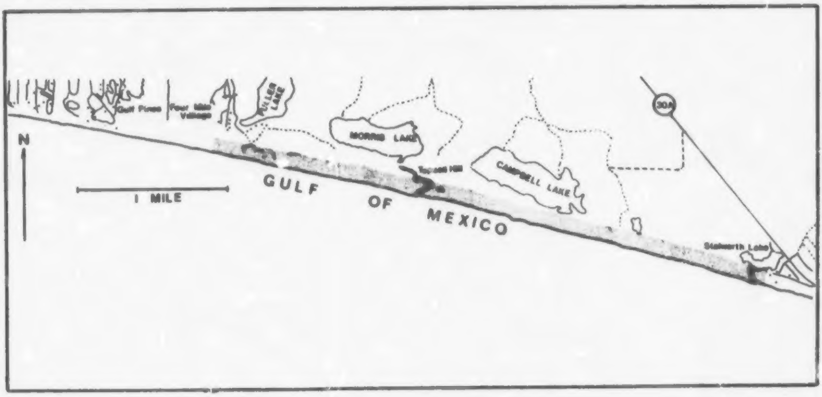

N
GULF STATE PARK
GULF STATE PARK
LITTLE LAKE
59
135
SHELBY
LAKES
Romar Beach
Gulf Shores
GULF OF MEXICO
1 MILE

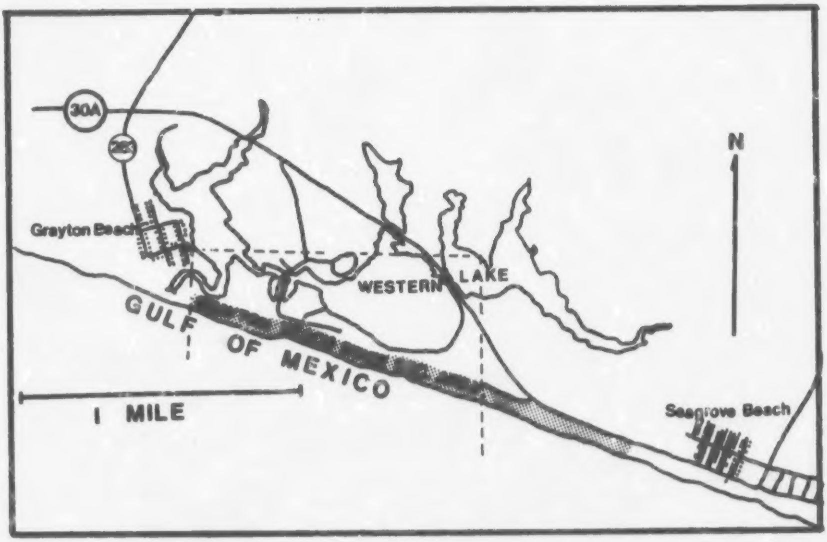
CHOCTAWHATCHEE BEACH MOUSE
(*Peromyscus polionotus allophrys*)

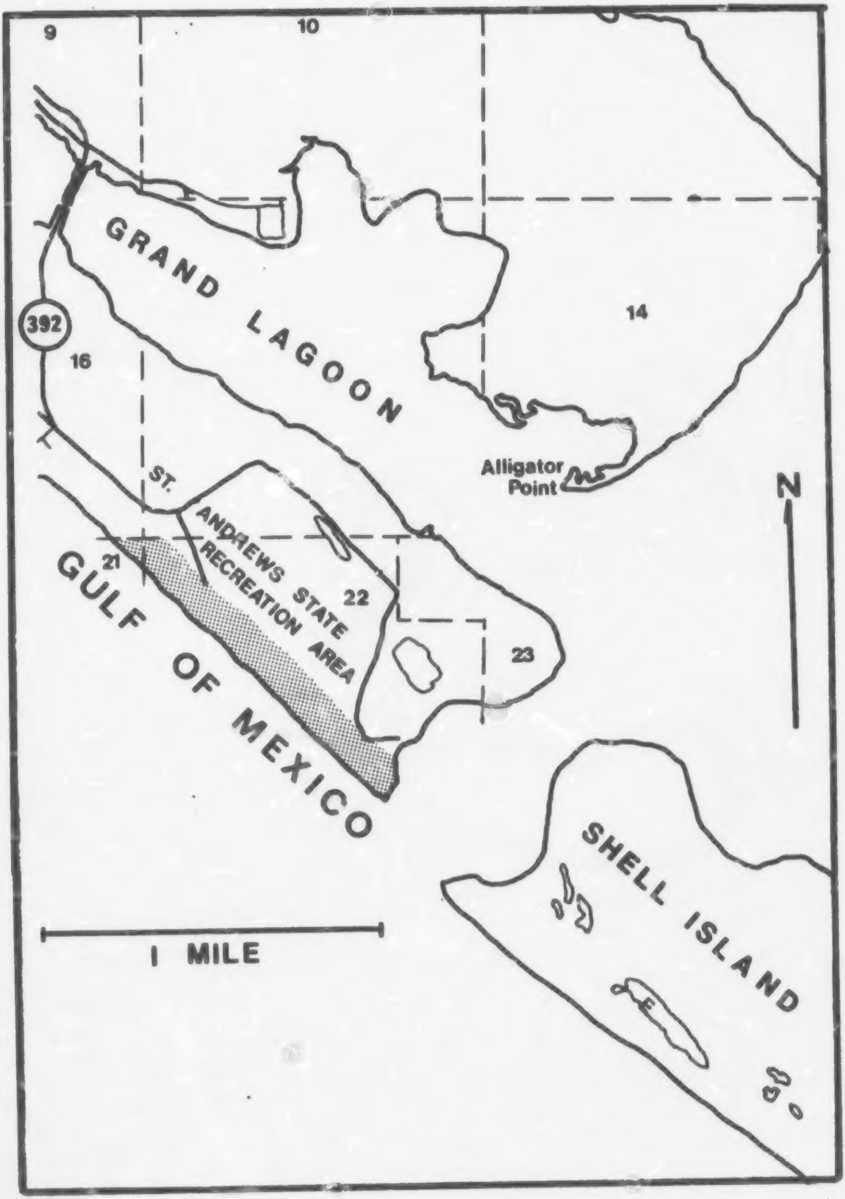
Florida. Areas of land, water, and airspace in Walton and Bay Counties with the following components (Tallahassee Meridian): (1) Those portions of T2S R21W E⅝ Sec. 35, Sec. 36, T2S R20W S¼ Sec. 31, and T3S R20W W⅛ Sec. 4, N½ Sec. 5, and NE¼ Sec. 6 extending 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico; (2) those portions of T3S R19W W½ Sec. 15 and Sec. 16 extending 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico; (3) those portions of the mainland part of the St. Andrews State Recreation Area in T4S R15W Sec. 21 and Sec. 22 extending 152.5 meters (500 feet) inland from the mean high tide line of the Gulf of Mexico; (4) those portions of Shell Island in T4S R15W Sec. 25-27 and Sec. 36, T4S R14W Sec. 31, and T5S R14W Sec. 4-6 extending 152.5 meters (500 feet) inland from the mean high tide line of Gulf of Mexico.

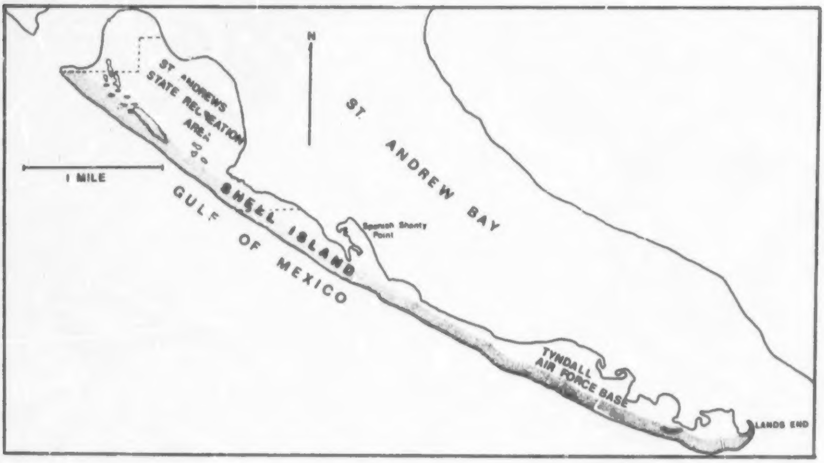
Within these areas the major constituent elements that are known to require special management considerations or protection are dunes and interdunal areas, and associated grasses and shrubs that provide food and cover.

NOTE: Maps follow:


Gulf Pines
Four Mile Village
FULLER LAKE
MORRIS LAKE
Topsail Hill
CAMPBELL LAKE
30A
Stallworth Lake
N
1 MILE
GULF OF MEXICO


30A
283
Grayton Beach
WESTERN LAKE
N
GULF OF MEXICO
1 MILE
Seagrove Beach


9
10
14
16
21
22
23
392
GRAND LAGOON
Alligator Point
N
ST. ANDREWS STATE RECREATION AREA
GULF OF MEXICO
SHELL ISLAND
1 MILE


ST ANDREWS STATE RECREATION AREA
N
1 MILE
ST. ANDREW BAY
SHELL ISLAND
GULF OF MEXICO
Spanish Shanty Point
TYNDALL AIR FORCE BASE
LANDS END

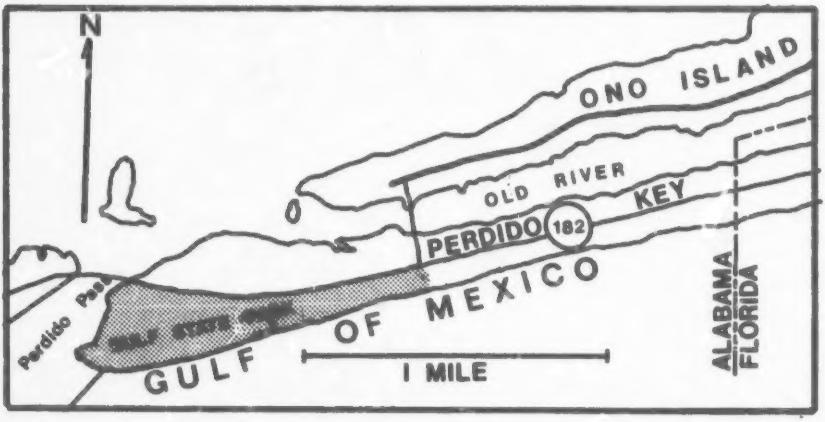
PERDIDO KEY BEACH MOUSE (*Peromyscus polionotus trissyllepsis*)

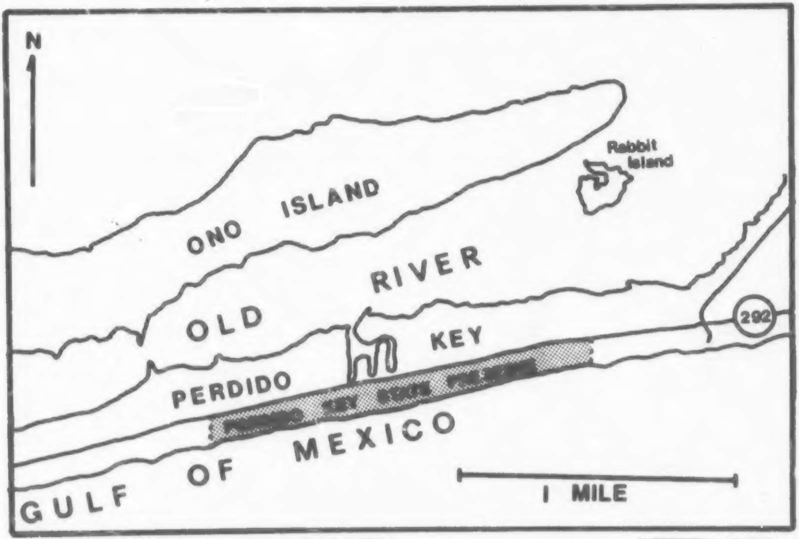
Alabama. An area of land, water, and airspace in Baldwin County with the following component (Tallahassee Meridian): That portion of the Perdido Key unit of the Gulf State Park south of State Road 182 in T9S R33W Sec. 2-3.

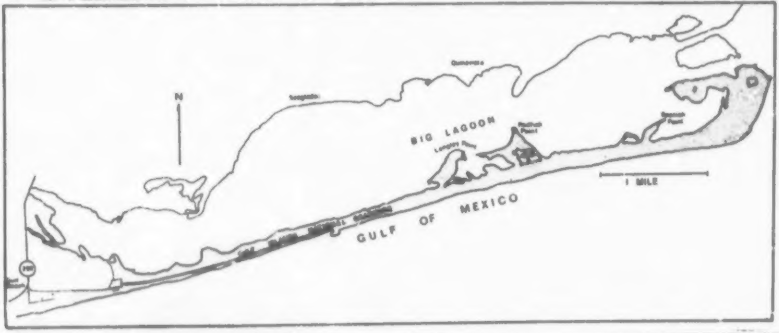
Florida. Areas of land, water, and airspace in Escambia County with the following components (Tallahassee Meridian): (1) That portion of the Perdido Key State Preserve south of State Road 292 in T3S R32W Sec. 32-33 and T4S R32W Sec. 5; (2) those portions of Perdido Key in T3S R31W Sec. 25-26 and Sec. 28-34, and in T3S R32W E½ Sec. 36, and W½ Sec. 36 south of the entrance road, parking lot, and Johnson Beach recreational facilities at the Gulf Islands National Seashore.

Within these areas the major constituent elements that are known to require special management considerations or protection are dunes and interdunal areas, and associated grasses and shrubs that provide food and cover.

NOTE: Maps follow:


N
ONO ISLAND
OLD RIVER
PERDIDO KEY
182
Perdido Pass
GULF STATE PARK
GULF OF MEXICO
1 MILE
ALABAMA
FLORIDA


N
ONO ISLAND
Rabbit Island
OLD RIVER
PERDIDO KEY
292
GULF OF MEXICO
1 MILE

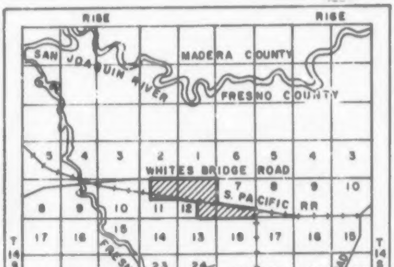

N
BIG LAGOON
GULF OF MEXICO
1 MILE

FRESNO KANGAROO RAT (*Dipodomys nitratoides exilis*)

California. An area of land, water, and airspace in Fresno County, with the following components (Mt. Diablo Base Meridian): T14S R15E, E½ NW¼ and NE¼ Sec. 11, that part of W½ Sec. 12 north of the Southern Pacific Railroad, E½ Sec. 12; T14S R16E, that part of Sec. 7 south of the Southern Pacific Railroad.

Within this area, the major constituent elements that are known to require special management considerations or protection are the hummocks and substrate that provide sites for burrow construction, and the natural alkali sink-open grassland vegetation that provides food and escape cover.

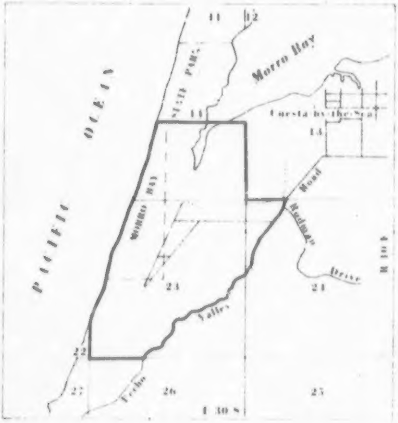
NOTE: Map follows.


R15E
R16E
SAN JOAQUIN RIVER
MADERA COUNTY
FRESNO COUNTY
5
4
3
2
1
6
5
4
3
WHITES BRIDGE ROAD
7
8
9
10
S. PACIFIC RR
8
9
10
11
12
17
16
15
14
13
18
17
16
15
T 14 S
T 14 S
20
21
22
23
24
19
20
21
22
FRESNO SLOUGH
JAMES ROAD
R15E
R16E

MORRO BAY KANGAROO RAT (*Dipodomys heermanni morroensis*)

California. An area of land, water, and airspace in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R10E S½ Sec. 14, those portions of Sec. 23-24 west of Pecho Valley Road.

NOTE: Map follows:

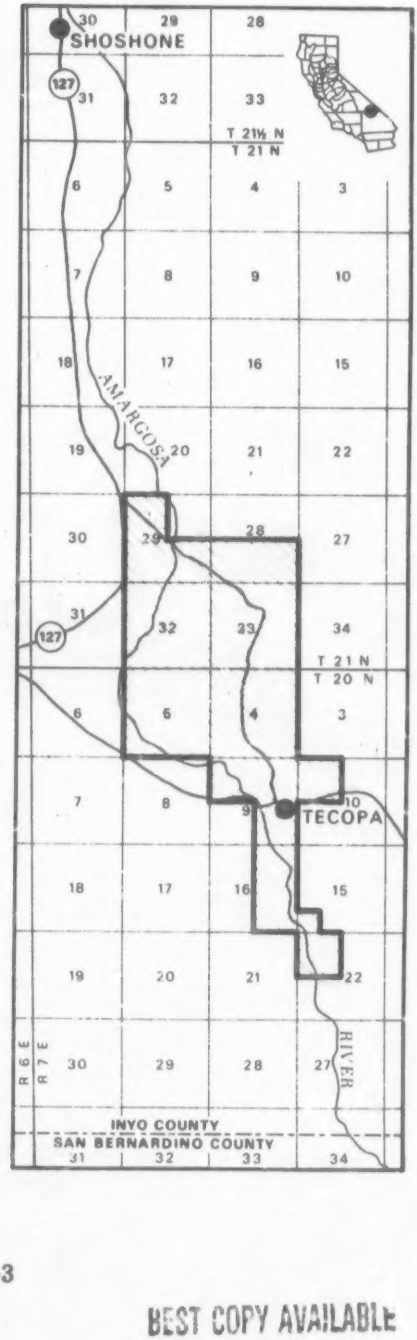

11
12
Morro Bay
PACIFIC
OCEAN
STATE PARK
MORRO BAY
14
Cuesta by the Sea
14
Road
Drive
R10E
23
24
Valley
22
27
Pecho
26
25
T30S

AMARGOSA VOLE (*Microtus californicus scirpensis*)

California. Marshes and associated land and water in the following areas of Inyo County (San Bernardino Meridian): T20N R7E Sec. 4, 5, N½ and SE¼ Sec. 9, NW¼ Sec. 10, SW¼SW¼ Sec. 15, E½ Sec. 16, NW¼ Sec. 22; T21N R7E S½ Sec. 28, S½ and NW¼ Sec. 29, Sec. 32, 33.

Within these areas, the major constituent elements that are known to require special management considerations or protection are marsh vegetation (primarily bulrushes of the genus *Scirpus*), springs, and some open water along the Amargosa River, which provide escape cover and an adequate food supply.

NOTE: Map follows:


SHOSHONE
127
T 21½ N
T 21 N
AMARGOSA
RIVER
127
T 21 N
T 20 N
TECOPA
R6E
R7E
INYO COUNTY
SAN BERNARDINO COUNTY
30
29
28
31
32
33
6
5
4
3
7
8
9
10
18
17
16
15
19
20
21
22
30
29
28
27
31
32
33
34
6
6
4
3
7
8
9
10
18
17
16
15
19
20
21
22
30
29
28
27
31
32
33
34

GRAY WOLF (*Canis lupus*)

Michigan. Isle Royale National Park.

Minnesota. Areas of land, water, and airspace in Beltrami, Cook, Itasca, Koochiching, Lake, Lake of the Woods, Roseau, and St. Louis Counties, with boundaries (4th and 5th Principal meridians) identical to those of zones 1, 2, and 3, as delineated in 50 CFR 17.40(d)(1)

NOTE: See map in § 17.40(d)(1).

(b) *Birds.*

YELLOW-SHOULDERED BLACKBIRD (*Agelaius xanthomus*)

Puerto Rico. Areas of land, water, and airspace with the following components: (1) All of Mona Island; (2) that portion of the main island of Puerto Rico within the following boundary: Beginning at a point where the Quebrada Boqueron joins the Bahia de Boqueron, thence proceeding southwesterly along coast to Cabo Rojo, thence eastward along the coast, including offshore cays, to the point where Highway 332 meets the Bahia de Guanica, thence northward on Highway 332 to its junction with Highway 116, thence westward on Highway 116 to its junction with Highway 305, thence westward on Highway 305 to its junction with Highway 303, thence northward on Highway 303 to its junction with Highway 101, thence westward on Highway 101 to the point where it crosses Quebrada Boqueron, thence along the Quebrada Boqueron to the point where it joins the Bahia de Boqueron; (3) a circular portion of the main island of Puerto Rico with a one mile radius, the center being the junction of Highways 360 and 102 in the town of San German; (4) Roosevelt Roads Naval Station, southeast of Ceiba.

NOTE: No map.

CALIFORNIA CONDOR (*Gymnogyps californianus*)

California. Sespe-Piru Condor Area: an area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Los Angeles Counties, with the following components (San Bernardino Meridian): Sespe Condor Sanctuary, as delineated by Public Land Order 695 (January 1951); T4N R20W Sec. 2, 5-10, N½ Sec. 11; T4N R21W Sec. 1-3, 10-12, N¼ Sec 13, N¼ Sec. 14, N¼ Sec. 15; T5N R18W Sec. 4-9, 18, 19, 30, 31, N½ Sec. 3, N½ Sec. 17; T5N R21W Sec. 1-4, 9-16, 21-28, 33-36; T6N R18W Sec. 7-11, 14-23, 26-35; T6N R19W Sec. 7-36; T6N R20W Sec. 8-36; T6N R21W Sec. 13-36; T6N R22W Sec. 3-26, 35, 36; T6N R23W Sec. 1-3, 10-14, 24, N½ Sec. 23; T7N R22W Sec. 31; T7N R23W Sec. 34-36.

Matilija Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, in Ventura and Santa Barbara Counties, with the following components (San Bernardino Meridian): T5N R24W W½ Sec. 3, Sec. 4-11, 14, 15, N½ Sec. 16, N¼ Sec. 17; T5N R25W E½ Sec. 1, NE¼ Sec. 12; T5½N R24W Sec. 31-34; T6N R24W S½ Sec. 32, S½ Sec. 33, S½ Sec. 34.

Sisquoc-San Rafael Condor Area: An area of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain, Santa Barbara County, with the following components (San Bernardino Meridian): T6N R26W Sec. 5, 6; T6N R27W Sec. 1, 2; T7N R26W Sec. 5-8, 17-20, 29-32; T7N R27W Sec. 1-14, 23-26, 35, 36; T7N R28W Sec. 1, 2, 11, 12; T8N R26W Sec. 19-22, 27-34; T8N R27W Sec. 19-36.

Hi Mountain-Beartrap Condor Areas: Areas of land, water, and airspace to an elevation of not less than 3,000 feet above the terrain in San Luis Obispo County, with the following components (Mt. Diablo Meridian): T30S R16E Sec. 13, 14, 23-26, SE¼ Sec. 11, S½ Sec. 12; T30S R17E Sec. 17-20, 29, 30; T31S R14E Sec. 1, 2, 11, 12, E½ Sec. 3, E½ Sec. 10, N½ Sec. 14, N½ Sec. 13; T31S R15E W½ Sec. 6, W ½ Sec. 7, NW¼ Sec. 18.

Mt. Pinos Condor Area: An area of land, water, and airspace in Ventura and Kern Counties, with the following components (San Bernardino Meridian): T8N R21W W½ Sec. 5, Sec. 6 N½ Sec. 7, NW¼ Sec. 8; T8N R22W Sec. 1, 2, E½ Sec. 3, NE¼ Sec. 10, N½ Sec. 11, N½ Sec. 12; T9N R21W Sec. 31, 32, W½ Sec. 33; T9N R22W E½ Sec. 35, Sec. 36.

Blue Ridge Condor Area: An area of land, water, and airspace in Tulare County, with the following components (Mt. Diablo Meridian): T19S R29E Sec. 5-9, 15-22, 27-30.

Tejon Ranch: An area of land, water, and airspace in Kern County, with the following components (San Bernardino Meridian): R16W, T10N, R17W T10N, R17W T11N, R18W T9N, R18W T10N, R19W T10N.

Kern County rangelands: An area of land, water, and airspace in Kern County between California State Highway 65 and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R29E T25S, R29E T26S, R30E T25S, R30E T26S.

Tulare County rangelands: An area of land, water, and airspace in Tulare County between California State Highway 65, State Highway 198, and the western boundary of Sequoia National Forest, with the following components (Mt. Diablo Meridian): R28E T18S (all sections); R28E T19S (all sections); R28E T20S (all sections); R28E T21S Sec. 1-18; R29E T20S (all sections); R29E T21S Sec. 1-18.

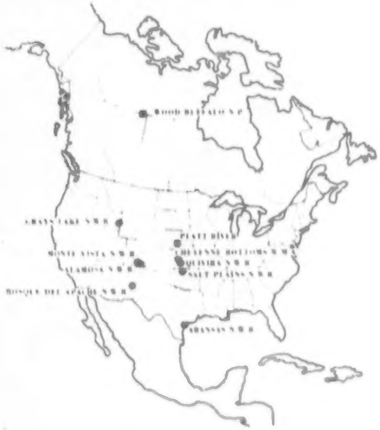
NOTE: No map.

MISSISSIPPI SANDHILL CRANE (*Grus canadensis pulla*).

Mississippi. Areas of land, water, and airspace in Jackson County, with the following components (St. Stephens Base Meridian):T6S R6W Sec. 31; T6S R7W E½ of E½ Sec. 34, Sec. 35-36, S½ Sec. 38; T6S R8W Sec. 27, those portions of Sec. 28-31 south of Seaman Road, Sec. 32-34; T7S R6W N½ of N½ Sec. 3, Sec. 6; T7S R7W Sec. 2-11, Sec. 13-16, Sec. 20-22, W½ Sec. 23, W½ of E½ Sec. 23, NE¼ of NE¼ Sec. 23, N½ of N½ Sec. 24, that portion of the SW¼ of SW¼ Sec. 30 south of the Louisville and Nashville Railroad, W½ of W½ Sec. 31, W½ Sec. 37, that portion of the E½ Sec. 37 north of U.S. Interstate Highway 10; T7S R8W Sec. 1-3, that portion of Sec. 4 north of U.S. Interstate Highway 10, Sec. 5-6, those portions of Sec. 7-8 north of U.S. Interstate Highway 10, Sec. 10-12, W½ of W½ Sec. 14, Sec. 15, that portion of Sec. 25 south of the Louisville and Nashville Railroad, that portion of the SE¼ of Sec. 26 south of the Louisville and Nashville Railroad and southeast of Davis Bayou, N½ of NE¼ Sec. 35, Sec. 36.

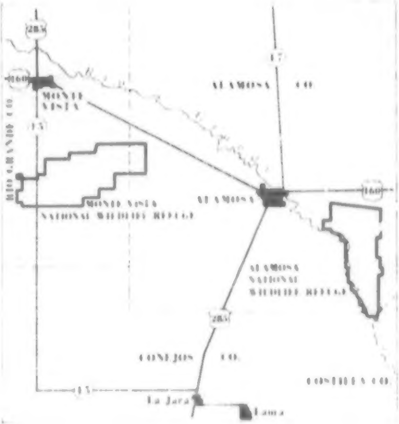
NOTE: No map.

WHOOPING CRANE (*Grus americana*)


WOOD BUFFALO N.P.
GRAYS LAKE N.W.R.
MONTE VISTA N.W.R.
ALAMOSA N.W.R.
BOSQUE DEL APACHE N.W.R.
PLATTE RIVER
CHEYENNE BOTTOMS W.M.A.
QUIVIRA N.W.R.
SALT PLAINS N.W.R.
ARANSAS N.W.R.

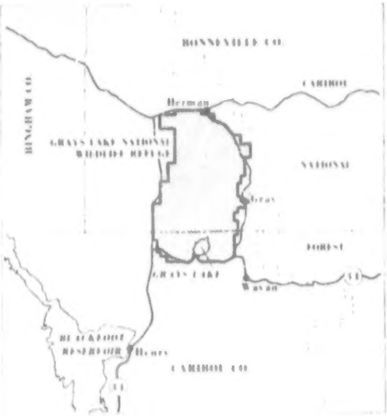
Colorado. Areas of land, water, and airspace with the following components: (1) Monte Vista National Wildlife Refuge in Alamosa and Rio Grande Counties; and (2) Alamosa National Wildlife Refuge in Alamosa and Conejos Counties.

NOTE: Map follows.


285
160
MONTE VISTA
15
RIO GRANDE CO.
MONTE VISTA NATIONAL WILDLIFE REFUGE
17
ALAMOSA CO.
ALAMOSA
160
ALAMOSA NATIONAL WILDLIFE REFUGE
285
CONEJOS CO.
COSTILLA CO.
15
La Jara

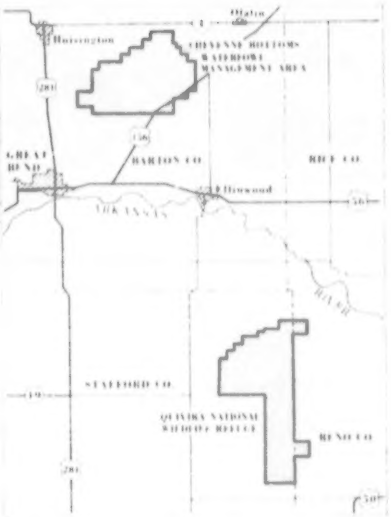
Idaho. An area of land, water, and airspace in Bonneville and Caribou Counties with the following components: Grays Lake National Wildlife Refuge, and all contiguous land and water within 1 mile of the boundaries of this refuge.

NOTE: Map follows.


BONNEVILLE CO.
CARIBOU
BINGHAM CO.
Herman
GRAYS LAKE NATIONAL WILDLIFE REFUGE
NATIONAL
Gray
FOREST
GRAYS LAKE
Wayan
34
BLACKFOOT RESERVOIR
Henry
CARIBOU CO.
34

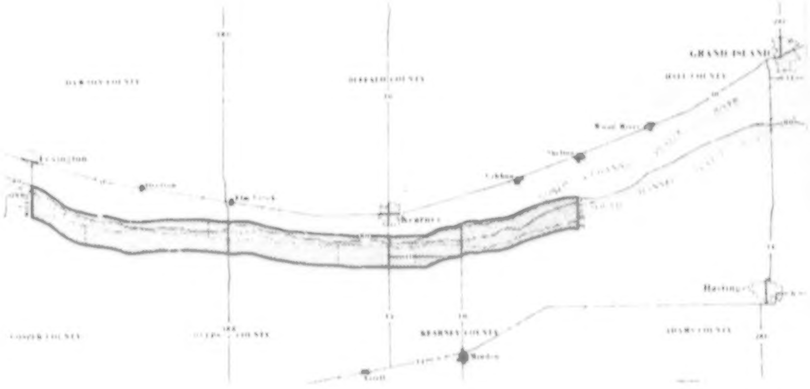
Kansas. Areas of land, water, and airspace with the following components: (1) Quivira National Wildlife Refuge in Stafford, Reno, and Rice Counties; and (2) Cheyenne Bottoms State Waterfowl Management Area in Barton County.

NOTE: Map follows.


Hoisington
CHEYENNE BOTTOMS WATERFOWL MANAGEMENT AREA
281
156
GREAT BEND
BARTON CO
RICE CO
Ellinwood
56
ARKANSAS
RIVER
STAFFORD CO
19
QUIVIRA NATIONAL WILDLIFE REFUGE
RENO CO
281
50

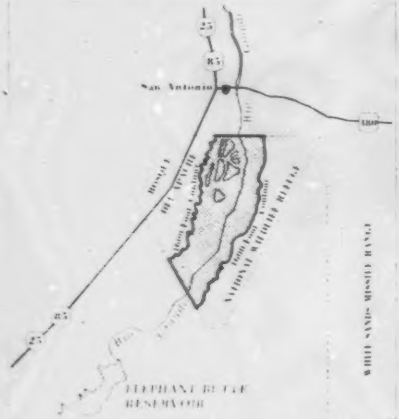
Nebraska. An area of land, water, and airspace in Dawson, Buffalo, Hall, Phelps, Kearny, and Adams Counties with the following boundaries: ***Platte River bottoms***—a strip of river bottom with a north-south width 3 miles, a south boundary paralleling Interstate 80, beginning at the junction of U.S. Highway 283 and Interstate 80 near Lexington, and extending eastward along Interstate 80 to the interchange for Shelton and Dehman, Nebr. near the Buffalo-Hall County line.

NOTE: Map follows.


GRAND ISLAND
DAWSON COUNTY
BUFFALO COUNTY
HALL COUNTY
Lexington
Kearney
Hastings
KEARNEY COUNTY
Minden

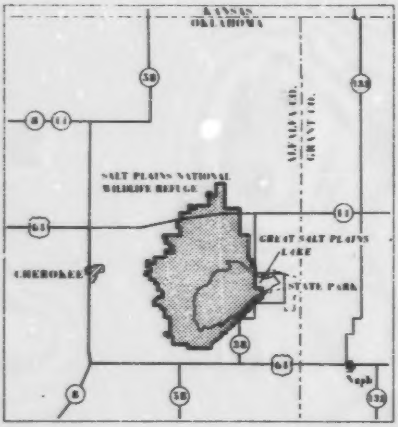
New Mexico. An area of land, water, and airspace in Socorro County with the following component: All areas at or below 4,600 feet in elevation within Bosque del Apache National Wildlife Refuge.

NOTE: Map follows.


25
85
San Antonio
380
25
85
ELEPHANT BUTTE RESERVOIR

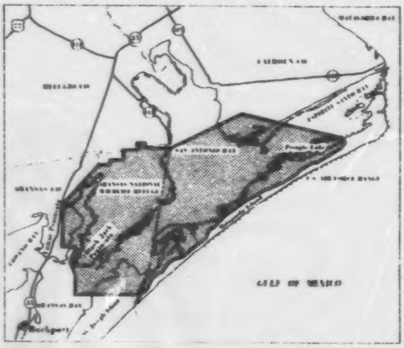
Oklahoma. An area of land, water, and airspace in Alfalfa County with the following component: Salt Plains National Wildlife Refuge.

NOTE: Map follows.


KANSAS
OKLAHOMA
58
8
11
ALFALFA CO.
GRANT CO.
132
SALT PLAINS NATIONAL WILDLIFE REFUGE
11
64
GREAT SALT PLAINS LAKE
STATE PARK
CHEROKEE
38
64
Nash
8
58
132

Texas. An area of land, water, and airspace in Aransas, Calhoun, and Refugio Counties with the following boundaries: Beginning at the point where the north boundary of the Aransas National Wildlife Refuge intersects the shore of San Antonio Bay at Webb Point; thence, from this point along a straight line across San Antonio Bay through the westernmost tip of Mosquito Point and inland to a point of intersection with metal surfaced road; thence eastward along a straight line across Espiritu Santo Bay to the intersection of the bay shore and a road at the east end of Pringle Lake on Matagorda Island; thence south along this road to the intersection with the main Matagorda Island road; southwestward along this main road to Cedar Bayou at latitude 28°04′10″ N.; thence due west across Cedar Bayou, Vinson Slough, and Isla San Jose to Gulf Intracoastal Waterway platform channel marker No. 25; thence north to the southwest corner of the proclamation boundary, just south of Blackjack Point; thence north along the proclamation boundary into St. Charles Bay to a line drawn as an eastward extension of Twelfth Street on Lamar Peninsula; thence westward along this line to intersection with Palmetto Avenue; thence northward along a straight line to the southwest corner of the Aransas National Wildlife Refuge at Texas State Highway 35 and the north shore of Cavasso Creek; thence northeast on a straight line to the corner of the Aransas National Wildlife Refuge north boundary adjacent to triangulation station "Twin"; thence along the north boundary of said refuge to the starting point at Webb Point.

NOTE: Map follows.


SAN ANTONIO BAY
Pringle Lake
GULF OF MEXICO
35
Rockport

AMERICAN PEREGRINE FALCON (*Falso peregrinus anatum*)

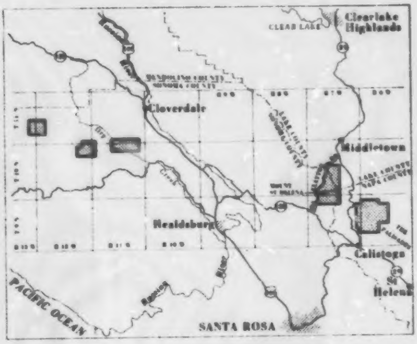
California. Dry Creek Zone: areas of land, water, and airspace in Sonoma County, with the following components (Mt. Diablo Base

Meridian): (1) T10N R11W W½ of SW¼ Sec. 6, W½ of NW¼ Sec. 6, NW¼ of NW¼ Sec. 7; T10N R12W Sec. 1, E½ of NE¼ Sec. 2, SW¼ of NE¼ Sec. 2, SE¼ Sec. 2, E½ of SW¼ Sec. 2, SE¼ of NW¼ Sec. 2, N½ of NE¼ Sec. 11, NE¼ of NW¼ Sec. 11, N½ of NE¼ Sec. 12, N½ of NW¼ Sec.12; T11N R11W SW¼ of SE¼ Sec. 31, S½ of SW¼ Sec. 31; T11N R12W SE¼ of SE¼ Sec. 36, SE¼ of SW¼ Sec. 36; (2) T10N R11W NW¼ of SW¼ Sec. 1, W½ of NW¼ Sec. 1, N½ Sec. 2, N½ of SE¼ Sec. 2, N½ of SW¼ Sec. 2, N½ Sec. 3, N½ of SE¼ Sec. 3, N½ of SW¼ Sec. 3, NE¼ Sec. 4, N½ of SE¼ Sec. 4, NE¼ of SW¼ Sec. 4, E½ of NW¼ Sec. 4; T11N R11W E½ of SE¼ Sec. 33, S½ Sec. 34, S½ Sec. 35, W½ of SE¼ Sec. 36, SW¼ Sec. 36; (3) T11N R12W S½ Sec. 19, Sec. 30; T11N R13W SE¼ Sec. 24, E½ of SW¼ Sec. 24, E½ Sec. 25, E½ of SW¼ Sec. 25, E½ of NW¼ Sec. 25.

Palisades-Table Rock Zone: an area of land, water, and airspace in Napa County, with the following components (Mt. Diablo Base Meridian): T9N R6W S½ Sec. 5, S½ Sec. 6, Sec. 7, Sec. 8, Sec. 9, Sec. 16, Sec. 17, Sec. 18, Sec. 19, Sec. 20; T9N R7W E½ Sec. 12, E½ Sec. 13, NE¼ Sec. 24, E½ of SE¼ Sec. 24.

Mount St. Helena Zone: An area of land, water, and airspace in Lake, Napa, and Sonoma counties, with the following components (Mt. Diablo Base Meridian): T9N R7W W½ of NE¼ Sec. 3, W½ of SE¼ Sec. 3, W½ Sec. 3, Sec. 4, E½ Sec. 5, E½ of SW¼ Sec. 5, E½ of NW¼ Sec. 5; T10N R7W that portion of Sec. 20 east of Ida Clayton Road, Sec. 21, W½ of NE¼ Sec. 22, W½ of SE¼ Sec. 22, W½ Sec. 22, W½ of NE¼ Sec. 27, W½ of SE¼ Sec. 27, W½ Sec. 27, Sec. 28, that portion of Sec. 29 east of Ida Clayton Road, that portion of the NE¼ Sec. 32 east and south of Ida Clayton Road, SE¼ Sec. 32, E½ of SW¼ Sec. 32, that portion of the SE¼ of NW¼ Sec. 32 south of the Ida Clayton Road, Sec. 33, W½ of NE¼ Sec. 34, W½ of SE¼ Sec. 34, W½ Sec. 34.

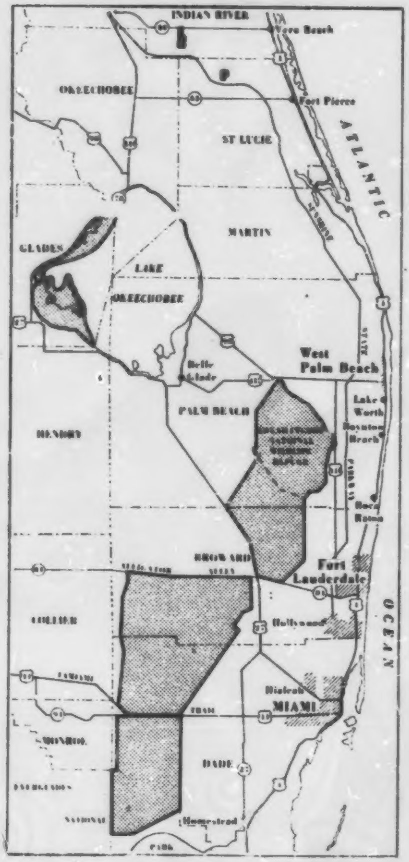
NOTE: Map follows.



FLORIDA EVERGLADE KITE (*Rostrhamus sociabilis plumbeus*)

Florida. Areas of land (predominantly marsh), water, and airspace, with the following components (Tallahassee Meridian): (1) St. Johns Reservoir, Indian River County: T33S R37E SW¼ Sec. 6, W½ Sec. 7, Sec. 18, Sec. 19; (2) Cloud Lake Reservoir, St. Lucie County; T34S R38E S½ Sec. 16, N½ Sec. 21; (3) Strazzulla Reservoir, St. Lucie County: T34S R38E SW¼ Sec. 21; (4) western parts of Lake Okeechobee, Glades and Hendry Counties, extending along the western shore to the east of the levee system and the undiked high ground at Fisheating Creek, and from the Hurricane Gate at Clewiston northward to the mouth of the Kissimmee River, including all the *Eleocharis* flats of Moonshine Bay, Monkey Box, and Observation Shoal, but excluding the open water north and west of the northern tip of Observation Shoal, north of Monkey Box, and east of Fisheating Bay; (5) Loxahatchee National Wildlife Refuge (Central and Southern Florida Flood Control District Water Conservation Area 1), Palm Beach County, including Refuge Management Compartments A, B, C, and D, and all of the main portion of the Refuge as bounded by Levees L-7, L-39, and L-40; (6) Central and Southern Florida Flood Control District Water Conservation Area 2A, Palm Beach and Broward Counties, as bounded by Levees L-6, L-35B, L-36, L-38, and L-39; (7) Central and Southern Florida Flood Control District Water Conservation Area 2B, Broward County, as bounded by Levees L-35, L-35B, L-36, and L-38; (8) Central and Southern Florida Flood Control District Water Conservation Area 3A, Broward and Dade Counties, as bounded by Florida Highway 84. Levees L-68A, L-67A (north of Miami Canal), L-67C (south of Miami Canal). L-29, and L-28, and a line along the undiked northerwestern portion of the Area; (9) that portion of Everglades National Park, Dade County, within the following boundary: beginning at the point where the Park boundary meets Florida Highway 94 in T54S R35E Sec. 20, thence eastward and southwest along the Park boundary to the southwest corner of Sec. 31 in T7S R37E, thence southwestward along a straight line to the southwest corner of Sec. 2 in T58S R35E, thence westward along the south sides of Sec. 3, 4, 5, and 6 in T58S R35E to the Dade-Monroe county line, thence northward along the Dade-Monroe county line to the Park boundary, thence eastward and northward along the Park boundary to the point of beginning.

NOTE: Map follows.

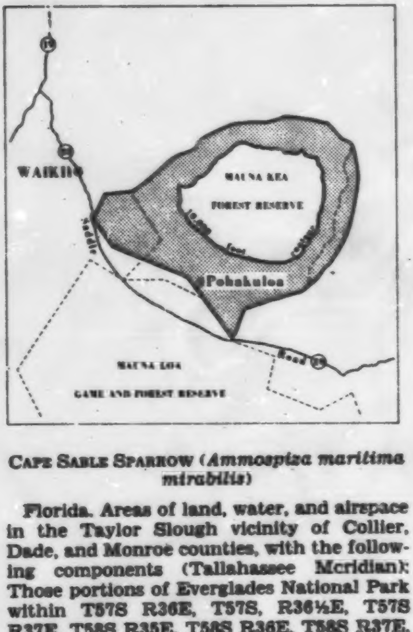

INDIAN RIVER
Vero Beach
OKEECHOBEE
Fort Pierce
ST LUCIE
ATLANTIC
MARTIN
GLADES
LAKE
OKEECHOBEE
West
Palm Beach
Belle
Glade
PALM BEACH
HENDRY
Lake Worth
Boynton Beach
Boca Raton
BROWARD
Fort
Lauderdale
COLLIER
Hollywood
OCEAN
Hialeah
MIAMI
MONROE
DADE
Homestead
PARK

PALILA (*Psittirostra bailleui*)

Hawaii, An area of land, water, and airspace on the island of Hawaii, Hawaii County, with the following components: (1) The State of Hawaii Mauna Kea Forest Reserve, except (a) that portion above the 10,000 foot contour line, (b) that portion south of the Saddle Road (State Highway 20), (c) lands owned by the United States in the Pohakuloa Training Area north of the Saddle Road (State Highway 20) established by Executive Order 1719 (Parcel 6, State of Hawaii Tax Map Key 4-4-16, Third Division), (d) that portion (Parcel 10, Kaohe IV, State of Hawaii Tax Map Key 4-4-16, Third Division) lying north of the Saddle Road

(State Highway 20) and south of the Power Line Road; (2) that portion of the State of Hawaii Kaohe Game Management Area (Parcel 4, State of Hawaii Tax Map Key 4-4-15, Third Division) to the north and east of the Saddle Road (State Highway 20); (3) that portion of the Upper Waikii Paddock (Parcel 2, State of Hawaii Tax Map Key 4-4-15, Third Division) northeast of the Saddle Road (State Highway 20); (4) that portion of the lands of Humuula between Puu Kahinahina and Kole lying southeast of the Mauna Kea Forest Reserve fence (portions of Parcels 2, 3, and 7, State of Hawaii Tax Map Key 3-8-1, Third Division) which are included in the State conservation district.

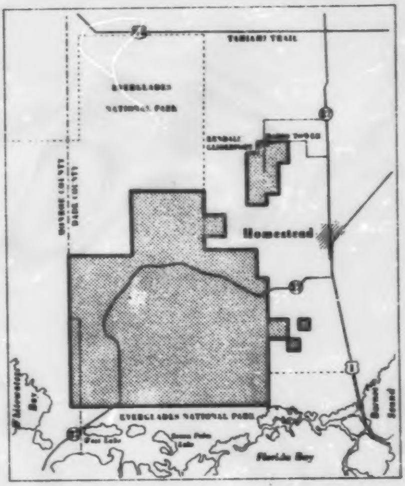
NOTE: Map follows.



CAPE SABLE SPARROW (*Ammospiza maritima mirabilis*)

Florida. Areas of land, water, and airspace in the Taylor Slough vicinity of Collier, Dade, and Monroe counties, with the following components (Tallahassee Meridian): Those portions of Everglades National Park within T57S R36E, T57S, R36½E, T57S R37E, T58S R35E, T58S R36E, T58S R37E, T58½S R35E, T58½S R36½E T59S R35E, T59S, R36E, T59S R37E. Areas outside of Everglades National Park within T55S R37E Sec. 36; T55S R38E Sec. 31, 32; T56S R37E Sec. 1, 2, 11-14, 23-26; T56S R38E Sec. 5-7, 18, 19; T57S R37E Sec. 5-8, T58S R38E Sec. 27, 29-32; T59S R38E Sec. 4.

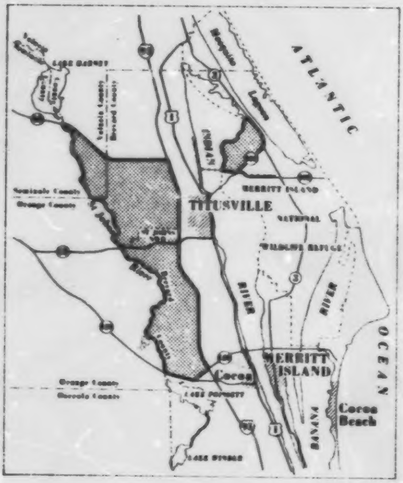
NOTE: Map follows.



DUSKY SEASIDE SPARROW (*Ammospiza maritima nigrescens*)

Florida. Cordgrass (*Spartina bakerii*) savannas and associated land, water, and airspace within the following boundary. Brevard County: Beginning at the point where Florida Highway 528 intersects Interstate Highway 95; thence westward along Florida Highways 528 and 520 to the main channel of the St. Johns River; thence northward along said channel to Florida Highway 46; thence eastward along Florida Highway 46 to Interstate Highway 95; thence southward along Interstate Highway 95 to the point of beginning. Marshes and associated airspace within the mosquito control impoundments designated by the Brevard County Mosquito Control District as T-10-J and T-10-K, northwest of Florida Highway 406 on the Merritt Island National Wildlife Refuge, Brevard County.

NOTE: Map follows.

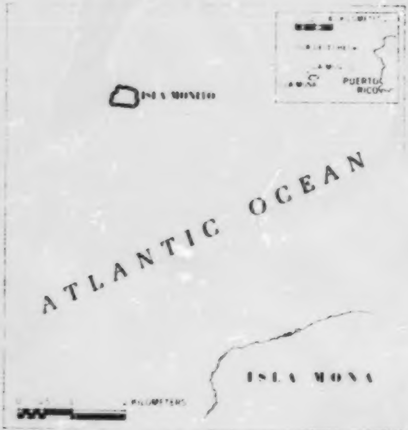

ATLANTIC
OCEAN
Mosquito Lagoon
INDIAN
TITUSVILLE
MERRITT ISLAND
NATIONAL
WILDLIFE REFUGE
RIVER
BANANA
MERRITT ISLAND
Cocoa
Cocoa Beach

(c) *Reptiles.*

Monito Gecko (*Sphaerodactylus micropithecus*)

Puerto Rico—Isla Monito, entire island.

Note: Map follows.


ISLA MONITO
PUERTO RICO
ATLANTIC OCEAN
ISLA MONA
KILOMETERS

Mona Boa (*Epicrates monensis monensis*)

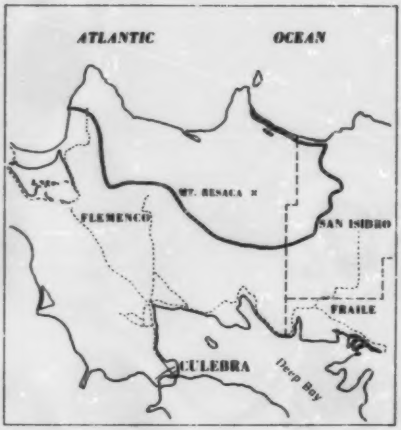
Commonwealth of Puerto Rico. Mona Island—entire island.

Note: Map follows.

Isla Mona
PUERTO RICO
Cabo Rojo

Giant Anole (*Anolis roosevelti*)

Note: No text. Map follows.


ATLANTIC
OCEAN
PT. RESACA
FLEMENCO
SAN ISIDRO
FRAILE
CULEBRA
Deep Bay

American Crocodile (*Crocodylus acutus*)

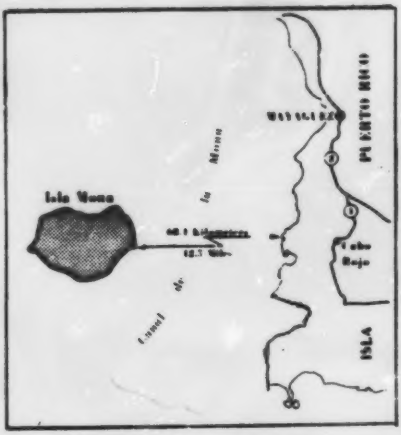
Florida. All land and water within the following boundary: Beginning at the easternmost tip of Turkey Point, Dade County, on the coast of Biscayne Bay; thence southeastward along a straight line to Christmas Point at the southernmost tip of Elliott Key; thence southwestward along a line following the shores of the Atlantic Ocean side of Old Rhodes Key, Palo Alto Key, Angle-fish Key, Key Largo, Plantation Key, Windley Key, Upper Matecumbe Key, Lower Matecumbe Key, and Long Key, to the westernmost tip of Long Key; thence Northwestward along a straight line to the westernmost tip of Middle Cape; thence northward along the shore of the Gulf of Mexico to the north side of the mouth of Little Sable Creek; thence eastward along a straight line to the northernmost point of Nine-Mile Pond; thence northeastward along a straight line to the point of beginning.

NOTE: No map.

MONA GROUND IGUANA (*Cyclura stejnegeri*)

Commonwealth of Puerto Rico. Mona Island—entire island.

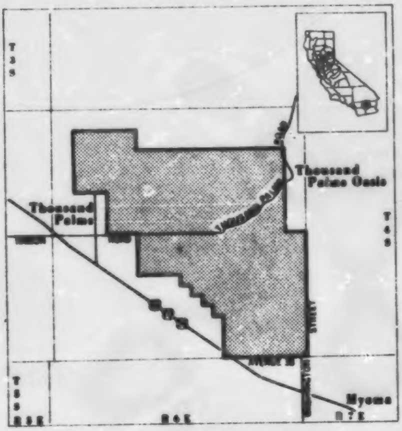
NOTE: Map follows.


Isla Mona
Mona
la
de
Canal
Cabo Rojo
PUERTO RICO
ISLA

COACHELLA VALLEY FRINGE-TOED LIZARD (*Uma inornata*)

California. Riverside County. S½ Section 5, SE¼ Section 6, E½ Section 7, all of sections 8 through 11, W½ Section 12, W½ Section 13, all of sections 14 through 16, E½ Section 17, E½NW¼ Section 17, E½SW¼ Section 17, all of sections 21 through 26, E½NW¼, NW¼SE¼, E½SE¼, NE¼ Section 27, all of sections 35 and 36, T4S R6E.

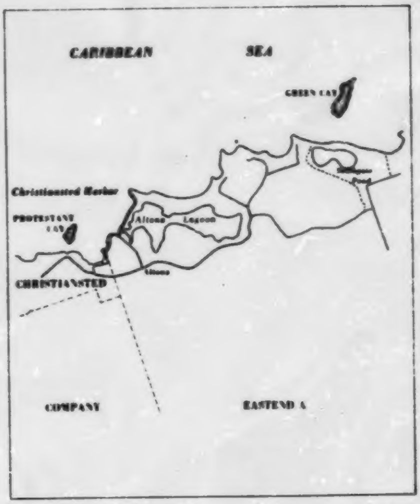
NOTE: Map follows.


T 3 S
T 4 S
T 5 S
R 5 E
R 6 E
R 7 E
Thousand Palms
Thousand Palms Oasis
Myoma

ST. CROIX GROUND LIZARD (*Ameiva polops*)

U.S. Virgin Islands. Protestant Cay, roughly defined by the coordinates 64°42′15″ N. and 17°45′7.5″ W.; and Green Cay, roughly defined by the coordinates 67°37′30″ N. and 17°46′15″ W.

NOTE: Map follows.

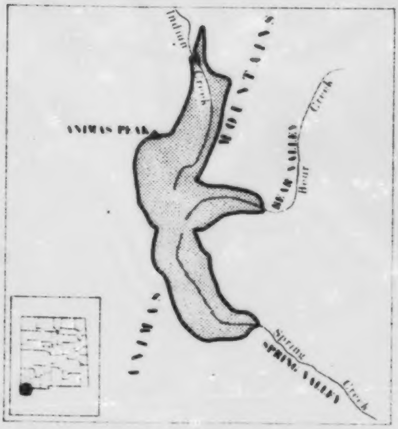

CARIBBEAN SEA
GREEN CAY
Christiansted Harbor
PROTESTANT CAY
Altona Lagoon
CHRISTIANSTED
COMPANY
EASTEND A

BEST COPY AVAILABLE

NEW MEXICAN RIDGE-NOSED RATTLESNAKE (*Crotalus willardi obscurus*)

New Mexico. Hidalgo County. Elevations between 6,200 feet and 8,532 feet in Bear, Indian, and Spring Canyons, Animas Mountains.

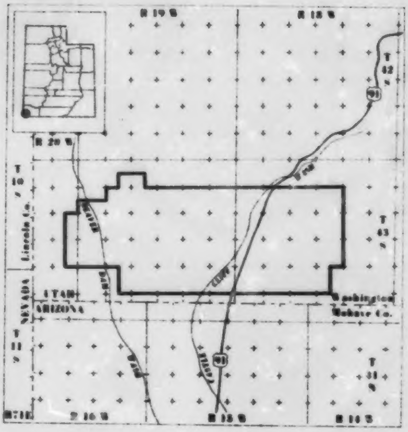
NOTE: Map follows.


Indian Creek
ANIMAS PEAK
MOUNTAINS
BEAR VALLEY
Bear Creek
ANIMAS
Spring Creek
SPRING VALLEY

BEAVER DAM SLOPE POPULATION OF THE DESERT TORTOISE (*Gopherus agassizii*)

Utah. Washington County. E½ Sections 13 and 24, T43S R20W; S½ Section 7, all of Sections 8 through 28, E½ Section 29, SE¼ Section 5, SW¼ Section 4, T43S R19W; all of Sections 7 through 10, 15 through 22, 28 through 30, and W½ Section 27, T43S R18W.

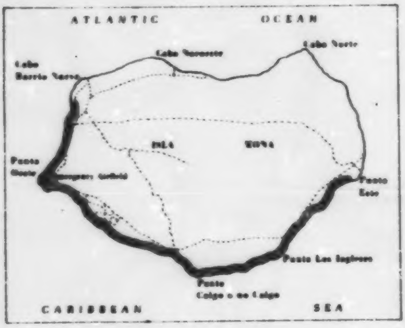
NOTE: Map follows.

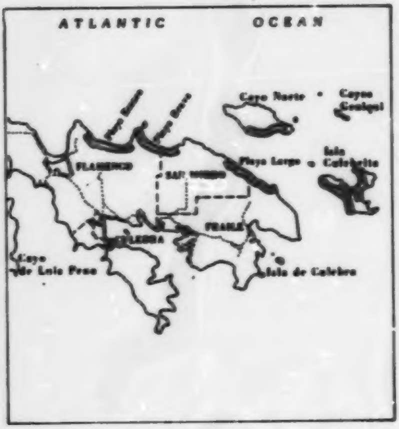

R 19 W
R 18 W
R 20 W
T 42 S
T 43 S
91
Lincoln Co.
NEVADA
UTAH
ARIZONA
Washington Co.
Mohave Co.

HAWKSBILL SEA TURTLE (*Eretmochelys imbricata*)

Puerto Rico: (1) Isla Mona. All areas of beachfront on the west, south, and east sides of the island from mean high tide inland to a point 150 meters from shore. This includes all 7.2 kilometers of beaches on Isla Mona. (2) Culebra Island. The following areas of beachfront on the north shore of the island from mean high tide inland to a point 150 meters from shore: Playa Resaca, Playa Brava, and Playa Larga. (3) Cayo Norte. South beach, from mean high tide inland to a point 150 meters from shore. (4) Isla Culebrita. All beachfront areas on the southwest facing shore, east facing shore, and northwest facing shore of the island from mean high tide inland to a point 150 meters from shore.

NOTE: Maps follow.

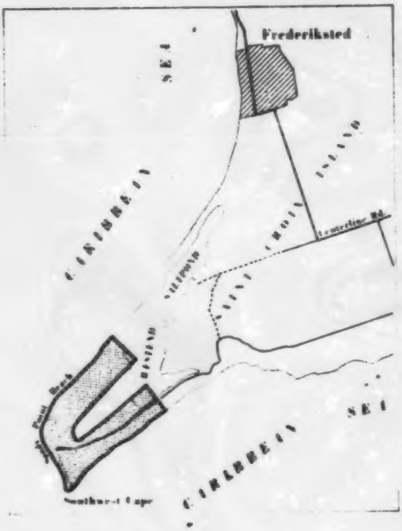

ATLANTIC OCEAN
Cabo Barrio Nuevo
Cabo Norte
ISLA MONA
Punta Oeste
Punta Este
Punta Los Ingleses
Punta
CARIBBEAN SEA


ATLANTIC OCEAN
Cayo Norte
Cayos Geniqui
FLAMENCO
SAN ISIDRO
Playa Larga
Isla Culebrita
FRAILE
CULEBRA
Cayo de Luis Pena
Isla de Culebra

Leatherback Sea Turtle (*Dermochelys coriacea*)

U.S. Virgin Islands—A strip of land 0.2 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the southwest cape to the south and running 1.2 miles northwest and then northeast along the western and northern shoreline, and from the southwest cape 0.7 mile east along the southern shoreline.

NOTE: Map follows.

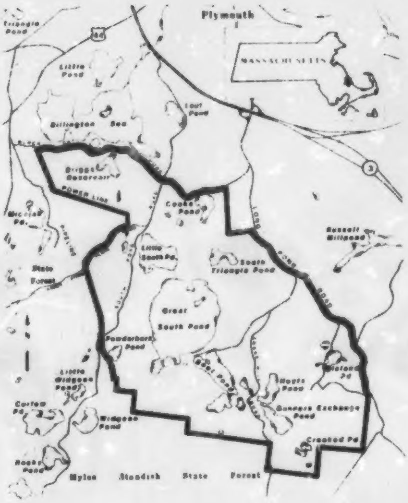

Frederiksted
SEA
CARIBBEAN
ST. CROIX ISLAND
Centerline Rd.
Southwest Cape
CARIBBEAN SEA

Plymouth Red-Bellied Turtle (*Chrysemys rubriventris bangsi*)

Massachusetts (Plymouth County).

An area including Briggs Reservoir, Cooks Pond, Little South Pond, South Triangle Pond, Great South Pond, Powderhorn Pond, Boat Pond, Hoyte Pond, Gunners Exchange Pond, Crooked Pond and Island Pond as follows: Beginning at the intersection of the centerline of the right-of-way of the Boston Edison and New Bedford Gas and Edison Light Company transmission lines and the westerly right-of-way line of Long Pond Road, thence southeasterly, along the westerly right-of-way line of Long Pond Road, 10,370 feet to the intersection of the said right-of-way line and the boundary line of the Myles Standish State Forest; thence southerly and westerly, along the boundary line of the Myles Standish State Forest, crossing and re-crossing Snake Hill Road, 11,200 feet, more or less; thence westerly, leaving the boundary line of the State Forest, 1,880 feet, more or less, to the boundary line of the Myles Standish State Forest; thence westerly, along the boundary line of the Myles Standish State Forest, 9,180 feet, more or less, to the intersection of the boundary of the said State Forest and the easterly right-of-way line of the Algonquin Gas Transmission Company pipeline; thence northerly, along the easterly right-of-way line of the said pipeline, 6,223 feet, more or less, to the intersection of the easterly right-of-way line of the said pipeline and the northerly right-of-way line of Kings Pond Plain Road; thence northeasterly, along the northerly right-of-way line of said road 3,100 feet to a point; thence northerly, 800 feet, more or less, to the sourtherly right-or-way line of the Boston Edison and new Bedford Gas and Edison Light Company transmission lines; thence northwesterly, along the southerly right-of-way base of the said transmission lines, 4,150 feet, more or less, to the intersection of the southerly right-of-way line of the said transmission lines and the easterly right-of-way line of the Algonquin Gas Transmission Company pipeline; thence northerly, along the easterly right-of-way line of the said pipeline, 2,500 feet, more or less, to the intersection of the easterly right-of-way line of the said pipeline and the southerly right-of-way line of Black Cat Road; thence southeasterly, along the southerly right-of-way line of said road, crossing South Pond road and continuing southeasterly, along the southerly right-of-way line of an unnamed road, 10,370 feet, more or less, to a point; thence southerly 2,300 feet, more or less, to the northerly right-of-way line of the Boston Edison and New Bedford Gas and Edison Light Company transmission lines, thence easterly, along the northerly right-of-way line of the said transmission lines, 1,300 feet, more or less, to the intersection of the northerly right-of-way line of the said transmission lines and the westerly right-of-way line of Long Pond Road; thence southerly, along the westerly right-of-way line of said road, 100 feet, more or less, the place of beginning.

NOTE: Map follows.



(d) *Amphibians.*

GOLDEN COQUI (*Eleutherodactylus jasperi*)

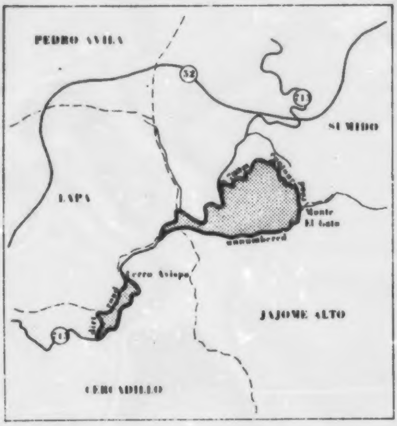
Puerto Rico. Areas of land, water and airspace with the following components: (1) Cerro Avispa-elevation above 700 meters on the south and southeastern slope of the mountain: from the northern junction of Highway 715 and an unnumbered dirt road southeast and southwest along Highway 715 to the southern junction with the same unnumbered dirt road and Highway 715, north and northeast along the unnumbered dirt road just below the southeast facing crest of Cerro Avispa to its junction with Highway 715.

(2) Monte el Gato-entire summit above 700 meters: from the junction of Highway 715 to the junction of Highway 715 and the 700 meter contour interval west along Highway 715 to the junction of Highway 715 and an unnumbered road, north and northeast along this road to where it crosses the 700 meter contour interval, and east along the 700 meter contour interval to where it crosses Highway 715.

(3) Sierra de Cayey-elevations above 700 meters: southeast from the junction of Highways 738 and 15 along Highway 15 to point .5 kilometer south of Benchmark 684.5, northeast from this point in a line to a point on Highway 7741 two kilometers south of the junction of Highway 738 and 7741, north and northwest along Highway 7741 to its junction with Highway 738, and northwest from the junction of Highways

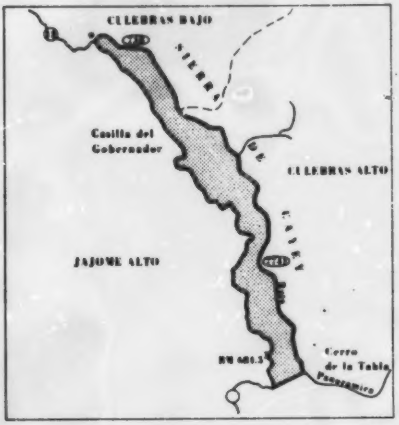
7741 and 738 along Highway 738 to its junction with Highway 15.

NOTE: Maps follow.


PEDRO AVILA
52
SUMIDO
LAPA
Monte
El Gato
unnumbered
Cerro Avispa
JAJOME ALTO
CERCADILLO

Refer to 7.5 minute U.S.G.S. Topographical Map, Cayey, Puerto Rico, 1972.

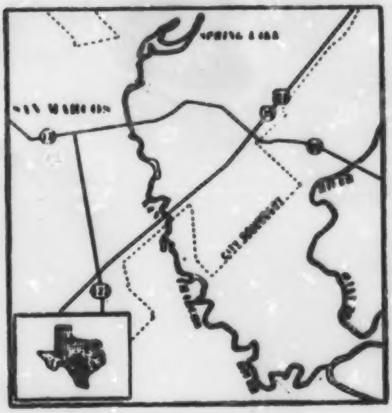
NOTE: Map follows.


CULEBRAS BAJO
SIERRA
Casilla del
Gobernador
DE
CULEBRAS ALTO
CAYEY
JAJOME ALTO
Cerro
de la Tabla
Panoramica

SAN MARCOS SALAMANDER (*Eurycea nana*)

Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 50 meters from the Spring Lake Dam.

NOTE: Map follows.

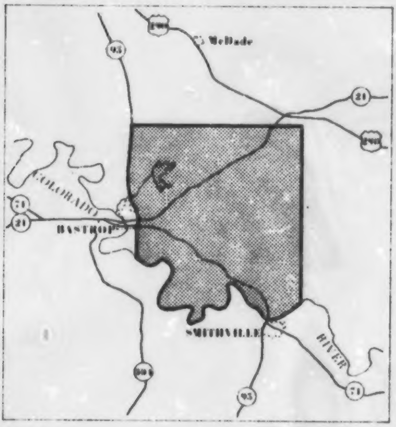

SPRING LAKE
SAN MARCOS
CITY BOUNDARY

HOUSTON TOAD (*Bufo houstonensis*)

Texas: Areas of land, water, and airspace as follows:

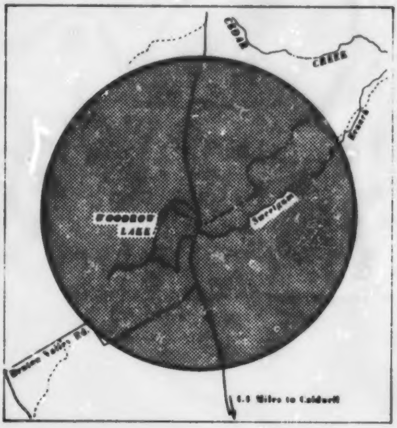
(1) *Bastrop County*. From the junction of a line corresponding to 30°12'00" N. and Texas State Highway 95 east along a line corresponding to 30°12'00" N. to where it intersects a line corresponding to 97°7'30" W. and south along a line corresponding to 97°7'30" W. to where it intersects the Colorado River, west and northwest along the north bank of the Colorado River to the due southward extension of Texas State Highway 95, and north along that extension and Texas State Highway 95 to where it intersects a line corresponding to 30°12'00" N.

NOTE: Map follows.


95
290
McDade
21
290
COLORADO
71
21
BASTROP
SMITHVILLE
RIVER
304
95
71

(2) *Burleson County*. A circular area with a 1-mile radius, the center being the north entrance to Lake Woodrow from Texas FM 2000.

NOTE: Map follows.


CROW
CREEK
WOODROW
LAKE
Brazos Valley Rd.
4.5 Miles to Caldwell

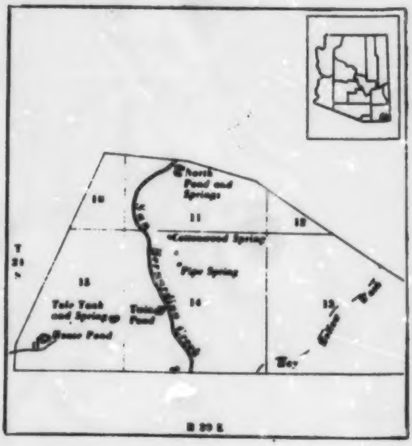
(e) *Fishes*.

YAQUI CATFISH (*Ictalurus pricei*)

Arizona, Cochise County. All aquatic habitats of San Bernardino NWR in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E.

Known constituent elements include clean unpolluted permanent water in streams with medium current with clear pools in the Rio Yaqui drainage. These waters should be without introduced exotic fishes.

NOTE: Map follows.


North Pond and Springs
10
11
12
Cottonwood Spring
Pipe Spring
T 24 S
15
14
13
Tule Tank and Springs
Twin Pond
House Pond
R 30 E

ALABAMA CAVEFISH (*Speoplatyrhinus poulsoni*)

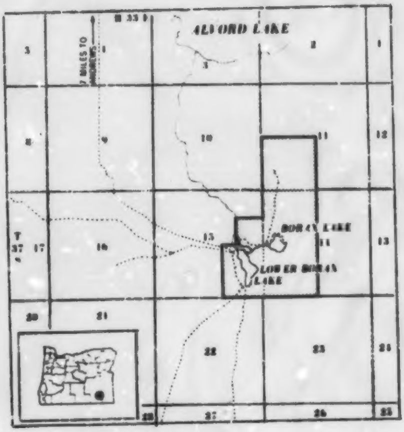
Alabama. Lauderdale County. More Specific locality data for Federal agencies fulfilling their obligations under Section 7 of the Endangered Species Act of 1973 can be obtained from the Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

NOTE: No map.

BORAX LAKE CHUB (*Gila boraxobius*)

Oregon. Harney County. Borax Lake and environments associated with the outflow from Borax Lake located within SW¼ Sec. 11, W½ Sec. 14, E¾ of the SE¼ Sec. 15, and the SE¼ of the NE¼ Sec. 15; T37S; R33E.

NOTE: Map follows.

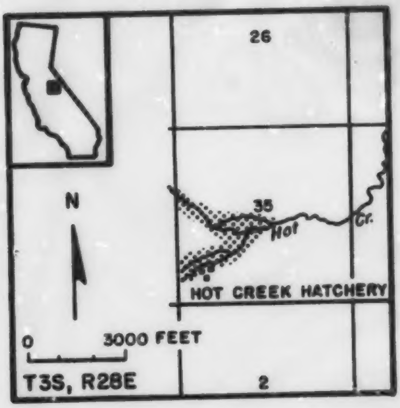

ALVORD LAKE
7 MILES TO ANDREWS
R 33 E
T 37 S
BORAX LAKE
LOWER BORAX LAKE
10
11
12
13
14
16
17
20
21
22
23
24
26
27
28

Owens Tui Chub (*Gila bicolor snyderi*)

California, Mono County

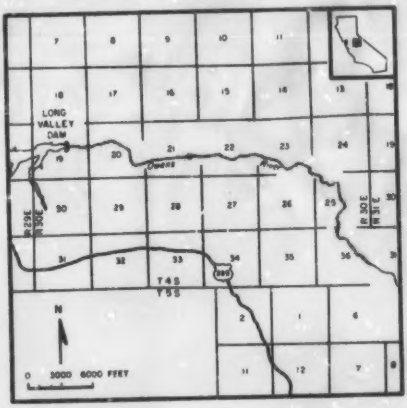
1. Hot Creek, adjacent springs and their outflows in the vicinity of Hot Creek Hatchery, and 50 feet of riparian habitat on all sides of the creek and springs in T3S, R28E, SW¼ Section 35.

Note: Map follows.


26
N
35
Hot
Cr.
HOT CREEK HATCHERY
0
3000 FEET
T3S, R28E
2

2. Owens River, and 50 feet on both sides of the river, from Long Valley Dam downstream for 8 stream miles in T4S, R30E, Sections 19, 20, 21, 22, 23, 24, 25, and 36.

Note: Map follows.


LONG VALLEY DAM
Owens
River
R29E
R30E
R30E
R31E
T4S
T5S
N
0
3000
6000 FEET
7
8
9
10
11
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
1
2
6
7
11
12

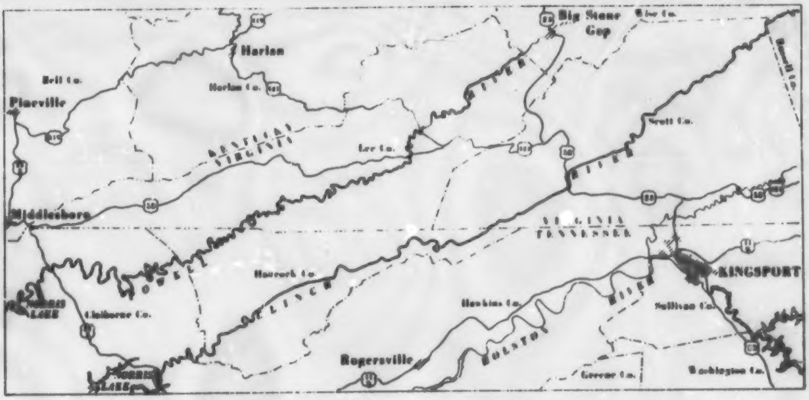
Known constituent elements include high quality, cool water with adequate cover in the form of rocks, undercut banks, or aquatic vegetation and a sufficient insect food base.

Slender Chub (*Hybopsis cahni*)

Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line. Clinch River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

Virginia. Lee and Scott Counties. Powell River, main channel from the Tennessee-Virginia State line upstream through Lee County, Va. Clinch River, main channel from the Tennessee-Virginia State line upstream through Scott County, Va.

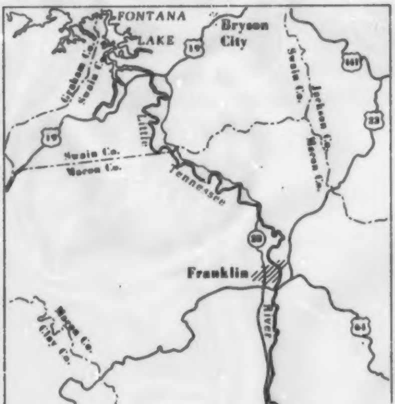
Note: Map follows.


Big Stone Gap
Wise Co.
Harlan
Bell Co.
Pineville
Harlan Co.
Russell Co.
Scott Co.
Kentucky
Virginia
Lee Co.
River
Middlesboro
Virginia
Tennessee
Kingsport
Hancock Co.
Powell
Clinch
Claiborne Co.
Hawkins Co.
Sullivan Co.
River
Norris Lake
Rogersville
Holston
Greene Co.
Washington Co.

SPOTFIN CHUB (*Hybopsis monacha*)

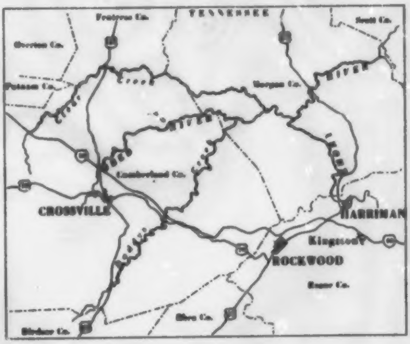
North Carolina. Macon and Swain Counties. Little Tennessee River, main channel from the backwaters of Fontana Lake upstream to the North Carolina-Georgia State line.

NOTE: Map follows.


FONTANA
LAKE
Bryson City
Graham Co.
Swain Co.
Jackson Co.
Macon Co.
Swain Co.
Macon Co.
Little
Tennessee
Franklin
River
Clay Co.
Clay Co.
Towns Co.
Macon Co.
Rabun Co.
NORTH CAROLINA
GEORGIA

Tennessee. Cumberland, Fentress, and Morgan Counties. Emory and Obed Rivers and Clear and Daddys Creek in Morgan County. Clear Creek in Fentress County. Obed River upstream to U.S. Interstate Highway 40, Clear Creek upstream to U.S. Interstate Highway 40 and Daddys Creek upstream to U.S. Highway 127 in Cumberland County.

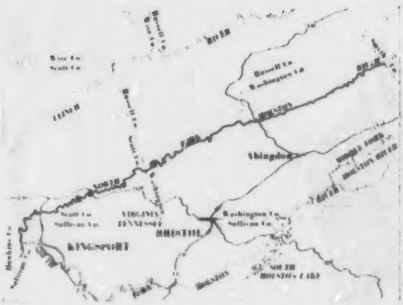
NOTE: Map follows.


Fentress Co.
TENNESSEE
Scott Co.
Overton Co.
Putnam Co.
Morgan Co.
Clear Creek
River
Obed River
Cumberland Co.
Creek
Emory
CROSSVILLE
HARRIMAN
Kingston
ROCKWOOD
Roane Co.
Rhea Co.
Bledsoe Co.

Tennessee. Hawkins and Sullivan Counties. North Fork Holston, main channel upstream from junction with South Fork Holston River to the Tennessee-Virginia State line.

Virginia. Scott and Washington Counties. North Fork Holston River, main channel from the Virginia-Tennessee State line upstream through Scott and Washington Counties.

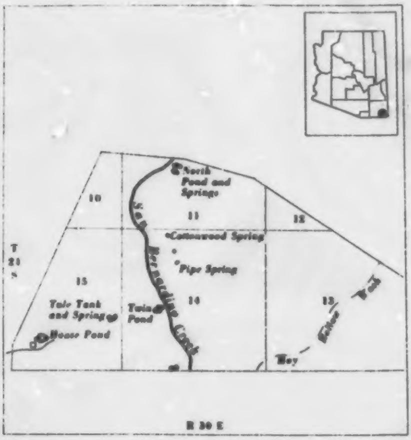
NOTE: Map follows.


Abingdon
BRISTOL
KINGSPORT

Yaqui Chub (*Gila purpurea*)

Arizona, Cochise County. All aquatic habitats of San Bernardino NWR in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E. Known constituent elements include clean permanent water with deep pools and intermediate areas with riffles, areas of detritus or heavily overgrown cut banks in the Rio Yaqui drainage, and the absence of introduced exotic fishes.

Note: Map follows.


North Pond and Springs
10
11
12
Cottonwood Spring
Pipe Spring
T 24 S
15
14
13
Tule Tank and Springs
Twin Pond
House Pond
San Bernardino Creek
Black Draw
R 30 E

Ash Meadows Speckled Dace (*Rhinichthys osculus nevadensis*)

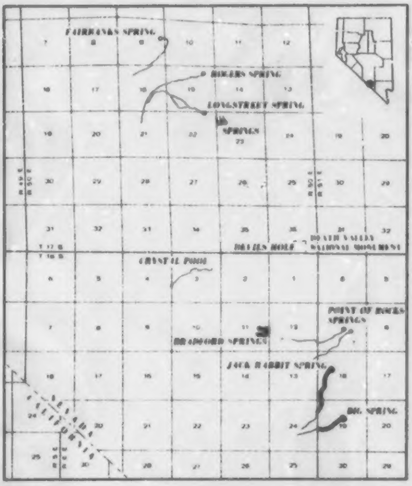
Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from these springs and outflows:

Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24 in T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

Note: Map follows.


FAIRBANKS SPRING
ROGERS SPRING
LONGSTREET SPRING
SPRINGS
DEVILS HOLE
DEATH VALLEY NATIONAL MONUMENT
CRYSTAL POOL
POINT OF ROCKS SPRINGS
BRADFORD SPRINGS
JACK RABBIT SPRING
BIG SPRING
T 17 S
T 18 S

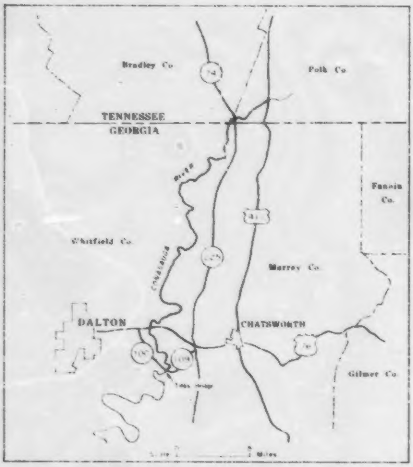
Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

Amber Darter (*Percina antesella*)

Tennessee and Georgia: Conasauga River from the U.S. Route 411 bridge in Polk County, Tennesee, downstream approximately 33.5 miles through Bradley County, Tennessee and Murray and Whitfield Counties, Georgia, to the Tibbs Bridge Road bridge (Murray County Road 109 and Whitfield County Road 100).

Constituent elements include high quality water, riffle areas (free of silt) composed of sand, gravel, and cobble, which becomes vegetated primarily with *Podostemum* during the summer.

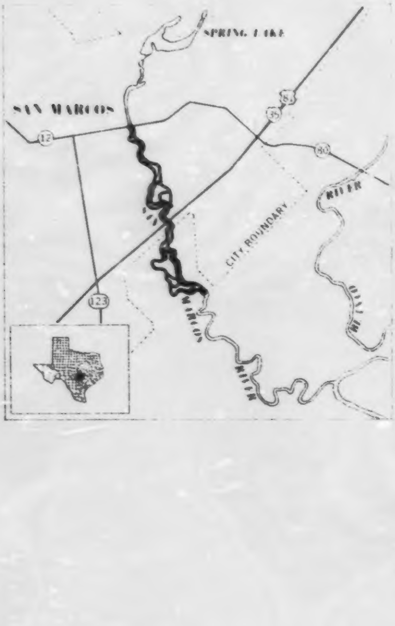
NOTE: Map follows.


Bradley Co.
Polk Co.
TENNESSEE
GEORGIA
Fannin Co.
Whitfield Co.
Murray Co.
DALTON
CHATSWORTH
Gilmer Co.
Conasauga River

FOUNTAIN DARTER (*Etheostoma fonticola*)

Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream approximately 0.5 miles below Interstate Highway 35 bridge.

NOTE: Map follows.

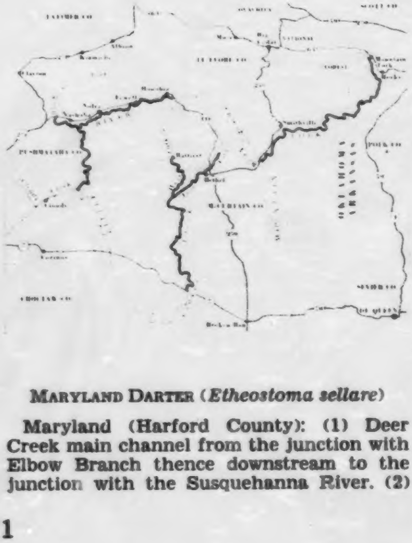

SPRING LAKE
SAN MARCOS
12
35
80
123
CITY BOUNDARY
RIVER
SAN MARCOS RIVER

LEOPARD DARTER (*Percina pantherina*)

Oklahoma. McCurtain and Pushmataha Counties. Little River, main channel in Pushmataha County from mouth of Cloudy Creek (T. 3 S.; R. 20 E.; Section 3) upstream to the Pushmataha-Le Flore County line. Black Fork Creek in McCurtain County from its junction with Little River (T. 1 S.; R. 20 E.; Section 32) upstream to Oklahoma Highway 144 crossing (T. 1 S.; R. 19 E.; Section 12). Glover Creek, main channel in McCurtain County from Oklahoma Highway 7 crossing (T. 5 S.; R. 23 E.; Section 28) upstream to the junction of the East Fork and West Fork of Glover Creek. East Fork and West Fork of Glover Creek. East Fork of Glover Creek, main channel in Pushmataha County from its junction with the West Fork Glover Creek (T. 3 S.; R. 23 E.; Section 7) upstream to 4 air miles north-northeast of the community of Bethel (T. 2 S.; R. 24 E.; Section 5). West Fork Glover Creek, main channel in McCurtain County from its junction with the East Fork Glover Creek upstream to the community of Battiest (T. 2 S.; R. 23 E.; Section 7). Mountain Fork Creek, main channel in McCurtain County, from mouth of Boktukola Creek (T. 2 S.; R. 25 E.; Section 9), 6 air miles south-southwest of Smithville, upstream to the Oklahoma-Arkansas State line.

Arkansas. Polk County. Mountain Fork Creek, main channel from the Arkansas-Oklahoma State line upstream to the community of Mountain Fork (T. 1 S.; R. 32 W.; Section 29).

NOTE: Map follows.

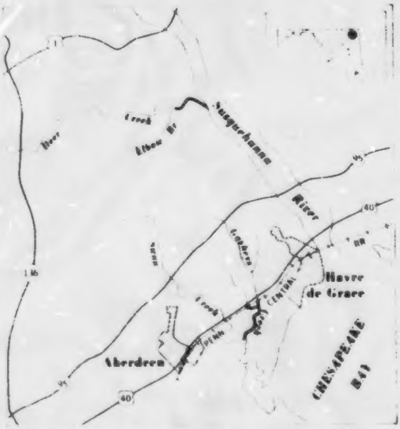

PUSHMATAHA CO.
LE FLORE CO.
McCURTAIN CO.
POLK CO.
OKLAHOMA
ARKANSAS
Battiest
Bethel
Smithville
Mountain Fork
Broken Bow

MARYLAND DARTER (*Etheostoma sellare*)

Maryland (Harford County): (1) Deer Creek main channel from the junction with Elbow Branch thence downstream to the junction with the Susquehanna River. (2)

Gasheys Run (also known as Gasheys Creek) main channels of east and west forks from their overcrossing by old Penn Central Railroad (presently titled to National Railroad Passenger Corporation, Amtrak) south to their confluence, thence south to the confluence with Swan Creek.

NOTE: Map follows.

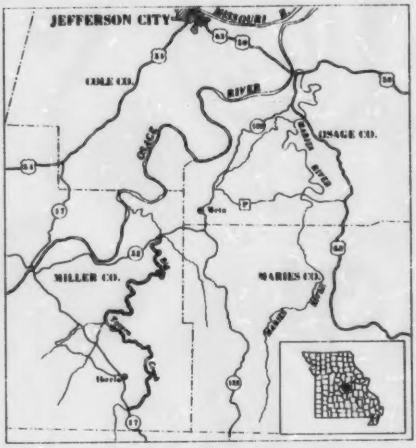

1
Deer
Creek
Elbow Br
Susquehanna
River
95
40
Gasheys
Swan
Creek
136
RR
Havre
de Grace
CENTRAL
PENN
Aberdeen
95
40
CHESAPEAKE
BAY

Constituent elements of this habitat are considered to be quality and permanence of streamflow in shallow areas of the streams (riffles), and presence of unsilted rocky crevices for shelter and production of aquatic insects and snails for food.

NIANGUA DARTER (*Etheostoma nianguae*)

Missouri. Big Tavern Creek, Miller County. Big Tavern Creek and 50 feet along each side of the creek from Highway 52 upstream to Highway 17.

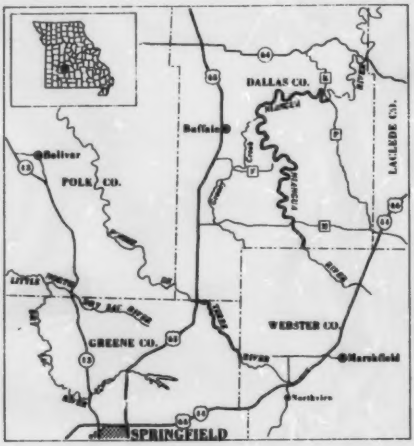
NOTE: Map follows.


JEFFERSON CITY
MISSOURI
63
50
54
COLE CO.
RIVER
50
OSAGE
133
OSAGE CO.
MARIES
RIVER
54
17
P
Meta
52
MILLER CO.
MARIES CO.
63
Iberia
133
17

Missouri. Niangua River, Dallas County. Niangua River and 50 feet on each side of the river from county road K upstream to 1 mile beyond county road M to the Webster County line.

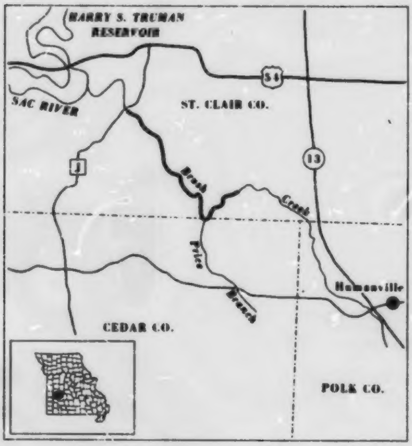
Missouri. Pomme de Terre River, Greene County. Pomme de Terre River and 50 feet on each side of the river from Highway 65 upstream to the Webster County line.

NOTE: Map follows.


64
65
DALLAS CO.
K
NIANGUA
RIVER
LACLEDE CO.
Buffalo
P
Bolivar
13
POLK CO.
F
Creek
NIANGUA
66
M
44
RIVER
LITTLE
SAC RIVER
TERRE
WEBSTER CO.
GREENE CO.
65
13
River
Marshfield
Northview
44
66
SPRINGFIELD

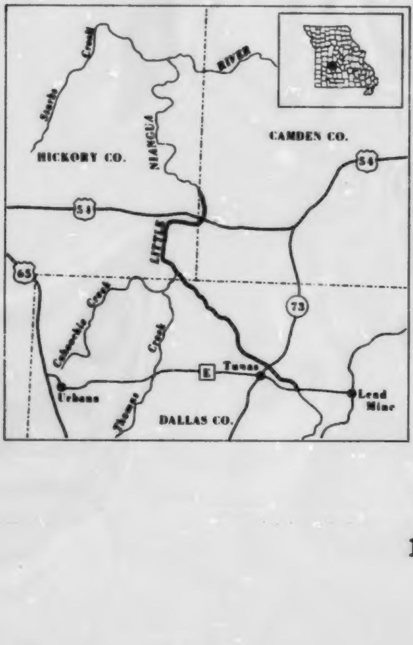
Missouri. Brush Creek, Cedar, and St. Clair Counties. Brush Creek and 50 feet on each side of the creek from 1000 feet upstream of county road J to the boundary of

Sections 34 and 35, Township 36 N, Range 25 W.


HARRY S. TRUMAN RESERVOIR
SAC RIVER
54
ST. CLAIR CO.
J
13
Brush
Creek
Price
Branch
Humansville
CEDAR CO.
POLK CO.

Missouri. Little Niangua River, Camden, Dallas, and Hickory Counties. Little Niangua River and 50 feet on each side of the river from 1 mile below (downstream of) Highway 54, Camden County, to county road E, Dallas County.

NOTE: Map follows.


Creek
Starks
RIVER
NIANGUA
CAMDEN CO.
HICKORY CO.
54
54
LITTLE
65
73
Creek
Creek
E
Tunas
Urbana
Thomas
DALLAS CO.
Lead Mine

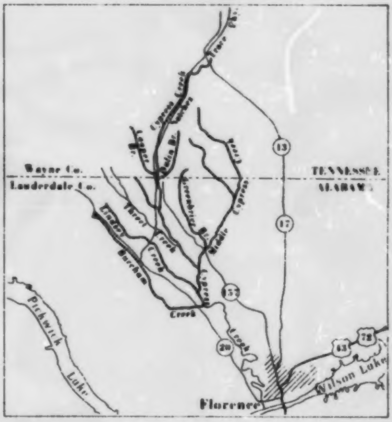
Constituent elements, for all areas designated as critical habitat, consist of medium-sized creeks with silt-free pools and riffles and moderately clear water draining hilly areas underlain by chert and dolomite. Water ranges from 8 to 46 inches in depth over gravel with scattered rubble.

SLACKWATER DARTER (*Etheostoma boschungi*)

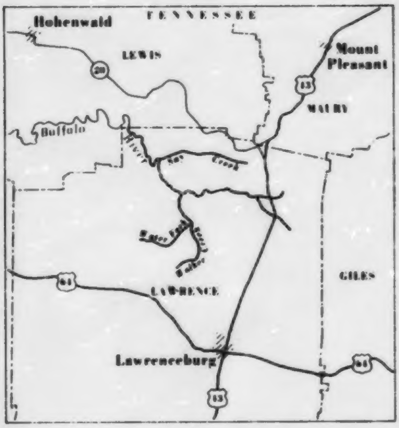
Alabama. Lauderdale County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress Creek and its tributaries upstream from the junction of Burcham Creek, including Burcham Creek, excluding Threet Creek and its tributaries.

Tennessee. Wayne County. All permanent and intermittent streams with flowing water from December to June tributary to Cypress and Middle Cypress Creek drainage.

NOTE: Maps follow.


Cypress Creek
13
Wayne Co.
Lauderdale Co.
TENNESSEE
ALABAMA
17
Threet Creek
Burcham
Creek
Middle Cypress
157
20
Pickwick Lake
43
72
Wilson Lake
Florence

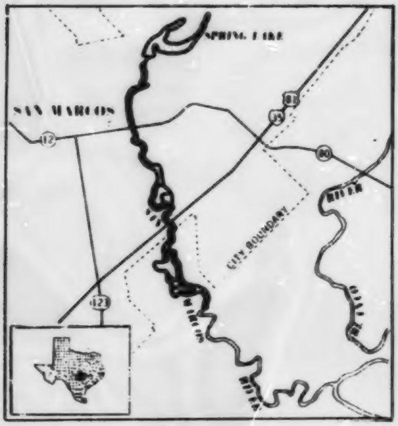
Tennessee. Lawrence County, Buffalo River and its tributaries in Lawrence County, Tenn.


Hohenwald
TENNESSEE
LEWIS
20
Mount Pleasant
43
MAURY
Buffalo
GILES
64
LAWRENCE
Lawrenceburg
64
43

San Marcos Gambusia (*Gambusia georgei*)

Texas, Hays County; San Marcos River from Highway 12 bridge downstream to approximately 0.5 miles below Interstate Highway 35 bridge.

Note: Map follows.

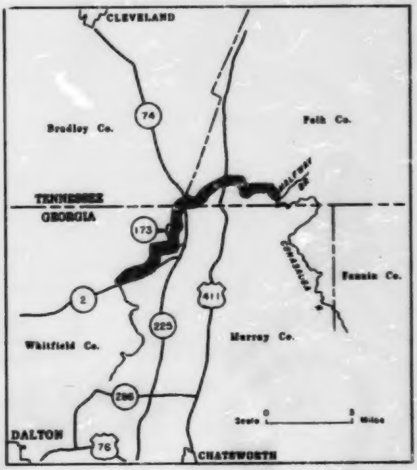

SPRING LAKE
SAN MARCOS
12
81
35
80
RIVER
CITY BOUNDARY
123
RIVER

Conasauga Logperch (*Percina jenkinsi*)

Tennessee and Georgia: Conasauga River from the confluence of Halfway Branch with the Conasauga River in Polk County, Tennessee, downstream approximately 11 miles to the Georgia State Highway 2 Bridge, Murray County, Georgia.

Constituent elements include high quality water, pool areas with flowing water and silt free riffles with gravel and rubble substrate, and fast riffle areas and deeper chutes with gravel and small rubble.

Note: Map follows.

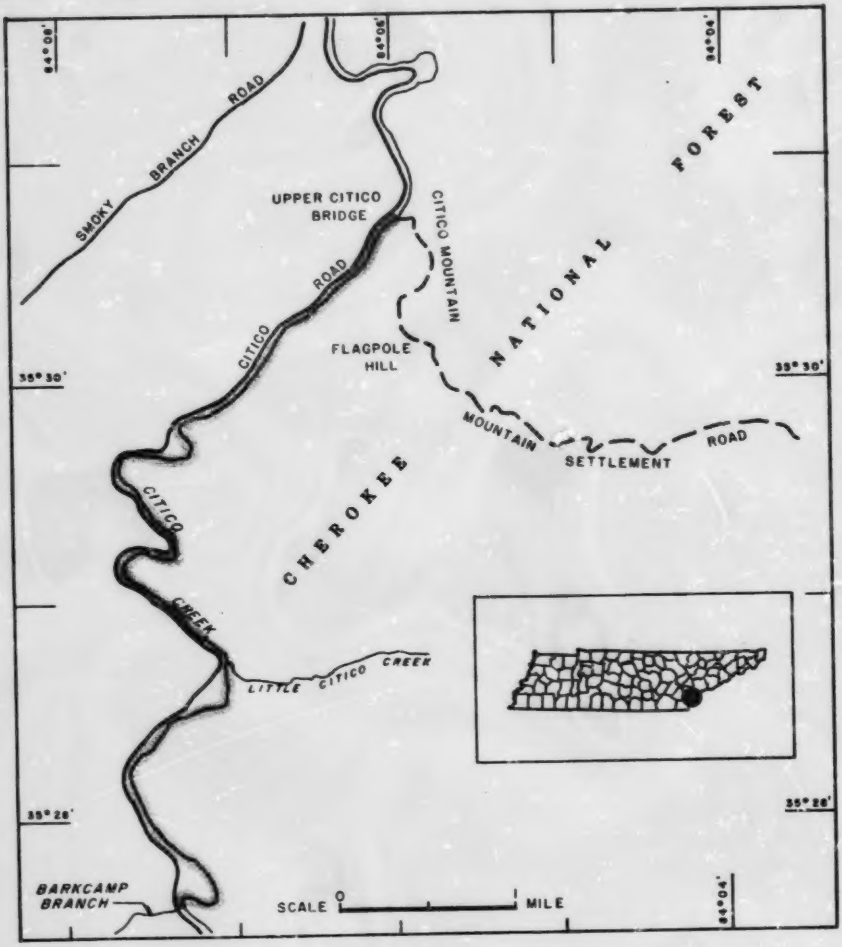

CLEVELAND
74
Bradley Co.
Polk Co.
HALFWAY BR.
TENNESSEE
GEORGIA
173
CONASAUGA
Fannin Co.
2
411
225
Murray Co.
Whitfield Co.
286
Scale 0 3 Miles
DALTON
76
CHATSWORTH

Smoky Madtom (*Noturus baileyi*)

Tennessee, Monroe County, Citico Creek, Cherokee National Forest. Citico Creek from the Cherokee National Forest boundary at upper Citico Bridge on Mountain Settlement Road (approximately creek mile 4.3) upstream to the confluence of Citico Creek with Barkcamp Branch (approximately creek mile 10.8).

Constituent elements of the critical habitat include the present good water quality in Citico Creek and run/pool areas with relatively silt-free pea-size gravel substrate containing scattered large flat rocks for breeding habitat. The species utilizes palm-size slab rocks for cover and relatively silt-free riffle areas during other times of the year. The area designated as critical habitat provides the smoky madtom with all of the necessary constituent elements for completion of its life cycle.

Note: Map follows.

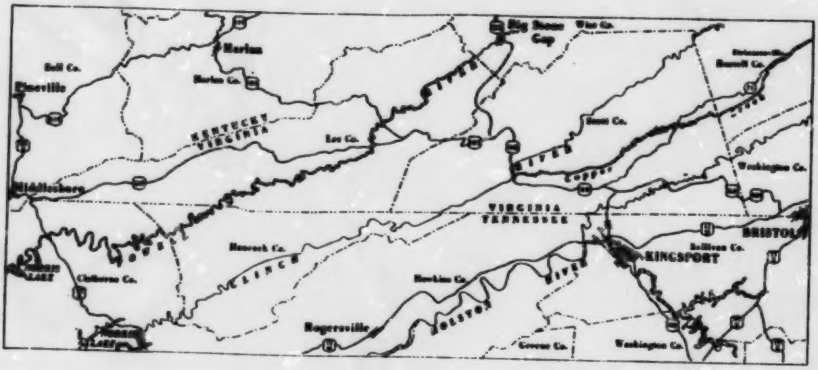

84°08'
84°06'
84°04'
SMOKY BRANCH ROAD
UPPER CITICO BRIDGE
CITICO MOUNTAIN
CITICO ROAD
FLAGPOLE HILL
CHEROKEE NATIONAL FOREST
35°30'
35°30'
MOUNTAIN SETTLEMENT ROAD
CITICO CREEK
LITTLE CITICO CREEK
35°28'
35°28'
BARKCAMP BRANCH
SCALE 0 1 MILE
84°04'

YELLOWFIN MADTOM (*Noturus flavipinnis*)

Tennessee. Claiborne and Hancock Counties. Powell River, main channel from backwaters of Norris Lake upstream to the Tennessee-Virginia State line.

Virginia. Lee, Scott, and Russell Counties. Powell River, main channel from the Virginia-Tennessee State line upstream through Lee County. Copper Creek, main channel from its junction with Clinch River upstream through Scott County and upstream in Russell County to Dickensonville.

NOTE: Map follows.


Harlan
Big Stone Gap
Wise Co.
Bell Co.
Pineville
Harlan Co.
Russell Co.
KENTUCKY
VIRGINIA
Lee Co.
Scott Co.
RIVER
Washington Co.
Middlesboro
COPPER
VIRGINIA
TENNESSEE
BRISTOL
Sullivan Co.
KINGSPORT
Hancock Co.
POWELL
CLINCH
Claiborne Co.
Hawkins Co.
RIVER
HOLSTON
Rogersville
Greene Co.
Washington Co.

ASH MEADOWS AMARGOSA PUPFISH
(*Cyprinodon nevadensis mionectes*)

Nevada, Nye County: Each of the following springs and outflows plus surrounding land areas for a distance of 50 meters (164 feet) from these springs and ouflows:

Fairbanks Spring and its outflow to the boundary between Sections 9 and 10, T17S, R50E.

Rogers Spring and its outflows to the boundary between Sections 15 and 16, T17S, R50E.

Longstreet Spring and its outflow to the boundary between Sections 15 and 22, T17S, R50E.

Three unnamed springs in the northwest corner of Section 23, T17S, R50E, and each of their outflows for a distance of 75 meters (246 feet) from the spring.

Crystal Pool and its outflow for a distance of 400 meters (1,312 feet) from the pool.

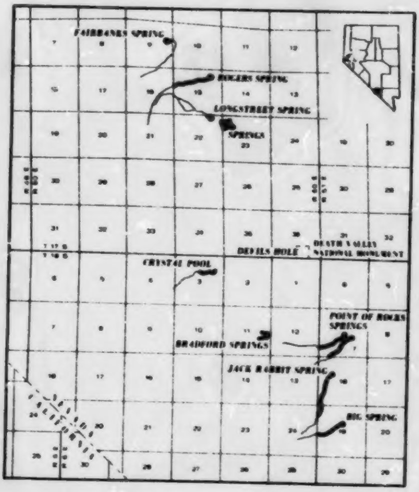
Bradford Springs in Section 11, T18S, R50E, and their outflows for a distance of 300 meters (984 feet) from the springs.

Jack Rabbit Spring and its outflow flowing southwest to the boundary between Section 24, T18S, R50E and Section 19, T18S, R51E.

Big Spring and its outflow to the boundary between Section 19, T18S, R51E and Section 24, T18S, R50E.

Point of Rocks Springs and their entire outflows within Section 7, T18S, R51E.

NOTE: Map follows.

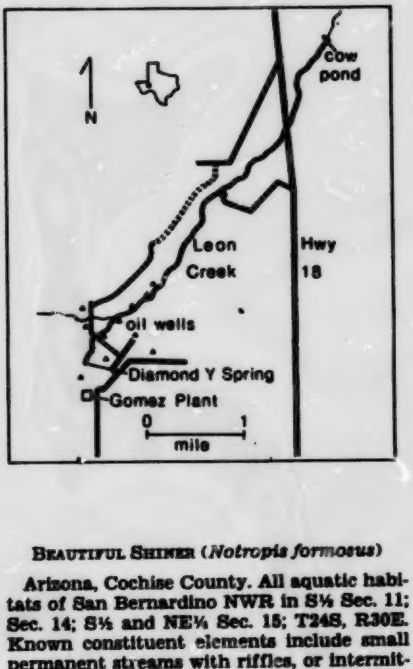

FAIRBANKS SPRING
ROGERS SPRING
LONGSTREET SPRING
SPRINGS
DEVILS HOLE
DEATH VALLEY NATIONAL MONUMENT
T 17 S
T 18 S
CRYSTAL POOL
POINT OF ROCKS SPRINGS
BRADFORD SPRINGS
JACK RABBIT SPRING
BIG SPRING
CALIFORNIA
NEVADA

Known constituent elements include warm-water springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which this species feeds.

LEON SPRINGS PUPFISH (*Cyprindon bovinus*)

Texas, Pecos County. Diamond Y Spring and its outflow stream, Loen Creek; from the head of Diamond Y Spring downstream in Leon Creek to a point 1 mile northeast of the Texas Highway 18 crossing, approximately 10 miles north of Fort Stockton.

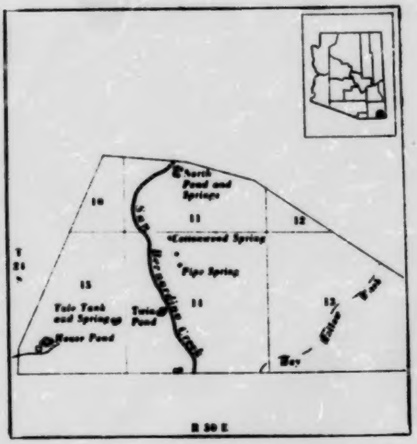
NOTE: Map follows.


N
Cow pond
Leon Creek
Hwy 18
oil wells
Diamond Y Spring
Gomez Plant
0
1
mile

BEAUTIFUL SHINER (*Notropis formosus*)

Arizona, Cochise County. All aquatic habitats of San Bernardino NWR in S½ Sec. 11; Sec. 14; S½ and NE¼ Sec. 15; T24S, R30E. Known constituent elements include small permanent streams with riffles, or intermittent creeks with pools and riffles in the Rio Yaqui drainage with clean unpolluted water. These waters should be free of introduced exotic fishes.

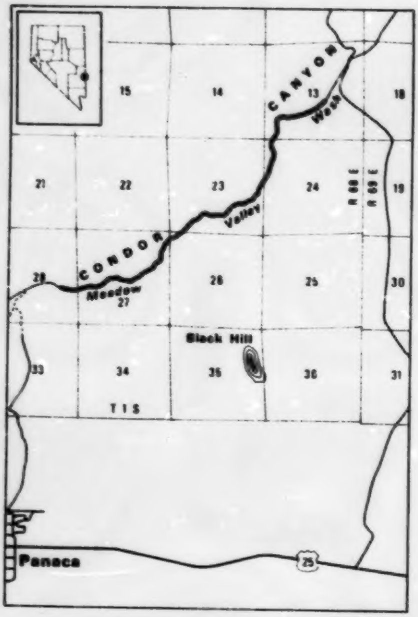
NOTE: Map follows.


North Pond and Springs
10
11
12
San Bernardino Creek
Cottonwood Spring
Pipe Spring
T 24 S
15
14
13
Tule Tank and Springs
Twin Pond
House Pond
R 30 E

BIG SPRING SPINEDACE (*Lepidomeda mollispinis pratensis*)

Nevada. Condor Canyon, Lincoln County. Four stream miles of Meadow Vally Wash and 50 feet on either side of the stream as it flows through the following sections: T. 1 S., R. 68 E., Sections 13, 23, 24, 26, 27, and 28. Known constituent elements include clean permanent flowing spring-fed stream with deep pool areas and shallow marshy areas along the shore and the absence of exotic fishes.

NOTE: Map follows.


15
14
13
18
CONDOR CANYON
Wash
Valley
Meadow
21
22
23
24
19
R 66 E
R 68 E
28
27
26
25
30
Black Hill
33
34
35
36
31
T 1 S
Panaca
93

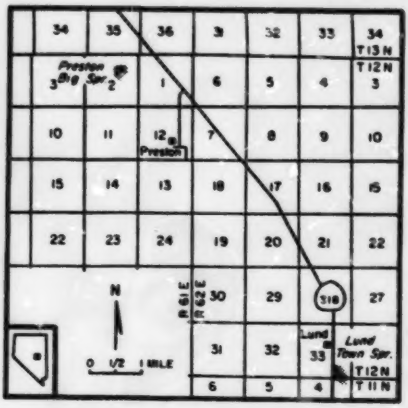
White River Spinedace (*Lepidomeda albivallis*)

Nevada, White Pine County. Each of the following springs and outflows plus surrounding land areas for a distance of 50 feet from these springs and outflows:

Preston Big Spring and associated outflows within T12N, R61E, NE ¼ Sec. 2.

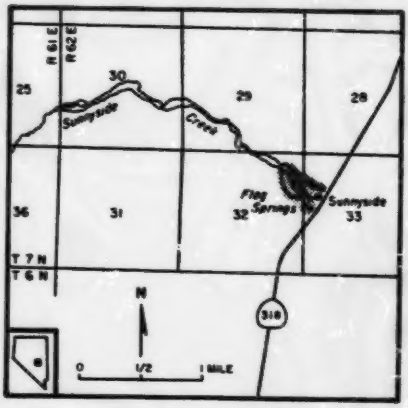
Lund Spring and associated outflows within T11N, R62E, NE ¼ of NE ¼ of Sec. 4; T12N, R62E, S ½ of SE ¼ Sec. 33.

Note: Map follows.


34
35
36
31
32
33
34
T 13 N
T 12 N
Preston Big Spr.
3
2
1
6
5
4
3
10
11
12
Preston
7
8
9
10
15
14
13
18
17
16
15
22
23
24
19
20
21
22
N
R 61 E
R 62 E
30
29
318
27
0
1/2
1 MILE
31
32
Lund
33
Lund Town Spr.
T 12 N
6
5
4
T 11 N

Nevada, Nye County. Flag Springs and associated outflows plus surrounding land areas for a distance of 50 feet from the springs and outflows within the following areas: T7N, R62E, E ½ of NE ¼ Sec. 32, SW ¼ of NW ¼ Sec. 33.

Note: Map follows.


R 61 E
R 62 E
30
25
29
28
Sunnyside Creek
36
31
Flag Springs
32
Sunnyside
33
T 7 N
T 6 N
N
318
0
1/2
1 MILE

Known constituent elements for all areas of critical habitat include consistently high quality and quantity of cool springs and their outflows, and surrounding land area that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

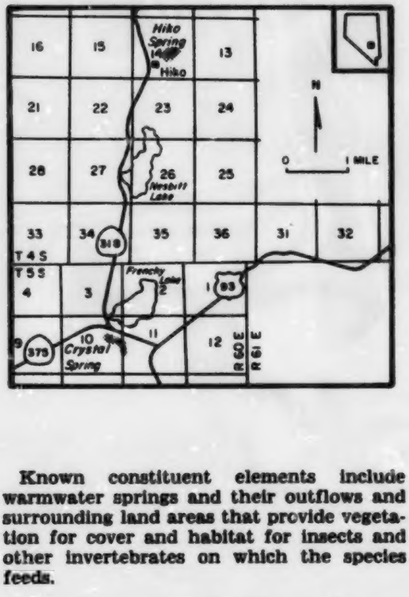
HIKO WHITE RIVER SPRINGFISH (*Crenichthys baileyi grandis*)

Nevada, Lincoln County. Each of the following springs and outflows plus surrounding land areas for a distance of 50 feet from these springs and outflows:

Hiko Spring and associated outflows within T4S, R60E, SW¼ of NE¼ Sec. 14 and NW¼ of SE¼ Sec. 14.

Crystal Springs and associated outflows within T5S, R60E, all of NE¼ of Sec. 10 and NE¼ of SE¼ Sec. 10, SW¼ of NW¼ Sec. 11 and NW¼ of SW¼ Sec. 11.

NOTE: Map follows.

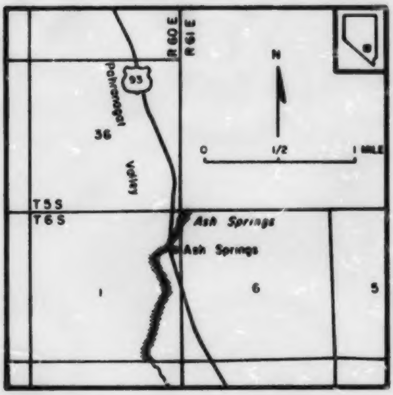


Known constituent elements include warmwater springs and their outflows and surrounding land areas that provide vegetation for cover and habitat for insects and other invertebrates on which the species feeds.

WHITE RIVER SPRINGFISH (*Crenichthys baileyi baileyi*)

Nevada, Lincoln County. Ash Springs and associated outflows plus surrounding land areas for a distance of 50 feet from the springs and outflows within the following areas: T6S, R60E, E½ of E½ Sec. 1 and T6S, R61E, NW¼ of NW¼ Sec. 6.

NOTE: Map follows.



Known constituent elements include warmwater springs and their outflows and surrounding land areas that provide vegetation for cover and habitat or insects and other invertebrates on which the species feeds.

MODOC SUCKER (*Catostomus microps*)

California, Modoc County.

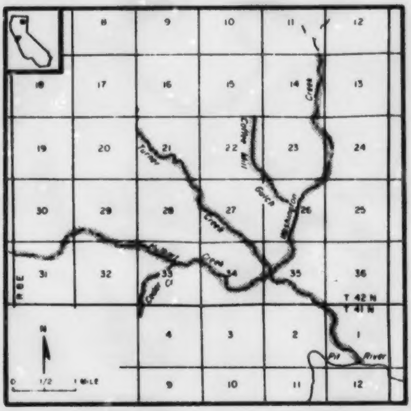
1. Turner Creek. Approximately 4.5 stream miles and 50 feet on either side of the stream channel from the juncture of Turner Creek with the Pit River upstream to T42N, R8E, Section 20; including those areas of the stream channel in T41N, R8E, Sections 1 and 2; and in T42N, R8E, Sections 21, 27, 28, 34, and 35.

2. Washington Creek. Approximately 4 stream miles and 50 feet on either side of the stream channel from the juncture of Washington Creek with Turner Creek to T42N, R8E, Section 11; including those areas of the stream channel in T42N, R8E, Sections 14, 23, 24, 25, 26, and 35. Also Coffee Mill Gulch, a tributary of Washington Creek, for approximately 1.5 miles and 50 feet on either side of the stream channel from the juncture of this tributary with Washington Creek upstream to T42N, R8E, Section 22; including those areas of the stream channel in T42N, R8E, Sections 22, 23, and 26.

3. Hulbert Creek. Approximately 3.5 stream miles and 50 feet on either side of the stream channel from the juncture of Hulbert Creek with Turner Creek upstream to T42N, R8E, Section 31; including those areas of the stream channel in T42N, R8E, Sections 29, 30, 32, 33, 34, and 35; and Cedar Creek, a tributary of Hulbert Creek, for approximately 1.5 stream miles and 50 feet on

either side of the stream channel from the juncture of Cedar Creek with Hulbert Creek upstream to Cedar Spring; including those areas of the stream channel in T41N, R8E, Section 4; and in T42N, R8E, Section 33.

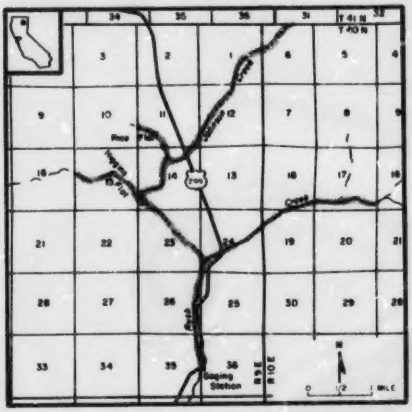
NOTE: Map follows:


8
9
10
11
12
18
17
16
15
14
13
Creek
19
20
21
Turner
22
Coffee Mill
23
24
30
29
28
27
Gulch
Washington
26
25
Creek
Hulbert
Creek
31
32
33
Cedar Cr
34
35
36
R8E
T 42 N
T 41 N
N
4
3
2
1
Pit River
0 1/2 1 MILE
9
10
11
12

4. Johnson Creek. Approximately 4 stream miles and 50 feet on either side of the stream channel from the juncture of Johnson Creek with Rush Creek upstream to T40N, R10E, Section 6; including those areas of the stream channel in T40N, R9E, Sections 1, 11, 12, 14, 23, and 24. Also in unnamed tributary of Johnson Creek in Rice Flat, for approximately 1 stream mile and 50 feet on either side of the stream channel from the juncture of this tributary with Johnson Creek upstream to T40N, R9E, Section 10; including those areas of the stream channel in T40N, R9E, Sections 11 and 14. Also in unnamed tributary of Johnson Creek in Higgins Flat, for approximately 1 stream mile and 50 feet on either side of the stream channel from the juncture of this tributary with Johnson Creek upstream to T40N, R9E, Section 10; including those areas of the stream channel in T40N, R9E, Sections 14 and 15.

5. Rush Creek. Approximately 5 stream miles and 50 feet on either side of the stream channel from the gauging station at the State Route 299 crossing upstream to T40N, R10E, Section 16; including those areas of the stream channel in T40N, R9E, Sections 24, 25, 26, 35, and 36; and in T40N, R10E, Sections 17, 18, and 19.

NOTE: Map follows.


34
35
36
31
T 41 N
T 40 N
32
3
2
1
Creek
6
5
4
9
10
11
Johnson
12
7
8
9
Rice Flat
Higgins
15 Flat
16
14
299
13
18
17
18
Creek
21
22
23
24
19
20
21
28
27
26
25
30
29
28
Rush
33
34
35
36
Gaging Station
R9E
R10E
N
0 1/2 1 MILE

Known constituent elements include intermittent and permanent-water creeks, and adjacent land areas that provide vegetation for cover and protection from soil erosion.

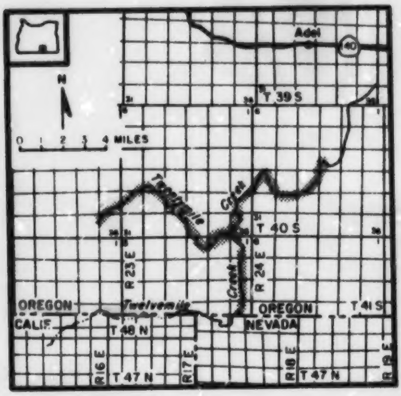
WARNER SUCKER (*Catostomus warnerensis*)

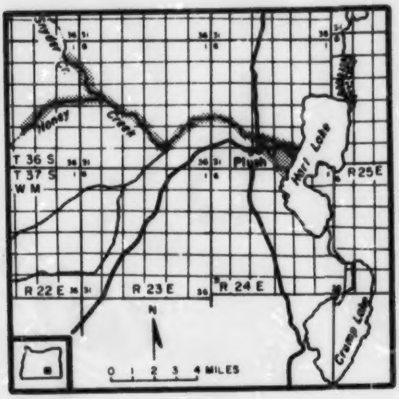
Oregon: Lake County.

1. *Twelvemile Creek*—Approximately 4 stream miles and 50 feet on either side of the stream commencing at the confluence of Twelvemile Creek and Twentymile Creek and extending upstream, and including those portions of Twelvemile Creek in T40S, R23E, Section 35; and T41S, R23E, Sections 1, 2, 12, 13, 23, and 24.

2. *Twentymile Creek*—Approximately 18 stream miles and 50 feet on either side of the stream commencing about 9 miles upstream of the junction of Twelvemile and Twentymile Creeks and extending to a point about 9 miles downstream of the junction, and including those portions of Twentymile Creek in T40S, R22E, Sections 25, 35, and 36; T40S, R23E, Sections 19, 20, 24, 25, 28, 29, 30, 33, 34, 35 and 36; T40S, R24E, Sections 15, 16, 19, 20, 21, 22, 28, 29, 30; and T41S, R23E, Sections 2 and 3.

NOTE: Map follows.


Adel
140
N
0 1 2 3 4 MILES
T 39 S
Twelvemile
Creek
T 40 S
R 23 E
R 24 E
Creek
OREGON
CALIF.
Twelvemile
OREGON
NEVADA
T 41 S
T 48 N
R 16 E
R 17 E
R 18 E
R 19 E
T 47 N
T 47 N


Snyder
Honey
Creek
T 36 S
T 37 S
W M
Plush
Hart Lake
R 25 E
R 22 E
R 23 E
R 24 E
N
0 1 2 3 4 MILES
Crump Lake

3. *Spillway Canal north of Hart Lake*—Approximately 2 stream miles and 50 feet on either side of the waterway commencing at its confluence with Hart Lake and extending to a point about 2 miles downstream, and including those portions of the waterway in T36S, R24E, Sections 7, 18, and 19.

4. *Snyder Creek*—Approximately 3 stream miles and 50 feet on either side of the stream commencing at the confluence of Snyder Creek and Honey Creek and extending to a point about 3 miles upstream on Snyder Creek, and including those portions of Snyder Creek in T36S, R22E, Sections 1 and 12; and T36S, R23E, Sections 7, 17, and 18.

5. *Honey Creek*—Approximately 16 stream miles and 50 feet on either side of the stream commencing at the confluence of Honey Creek with Hart Lake and extending to a point about 16 miles upstream on Honey Creek, and including those portions of Honey Creek in T36S, R24E, Sections 19, 20, 27, 28, 29, 30, 33, 34, and 35; T36S, R23E, Sections 17, 18, 20, 21, 22, 23, 24, 26, 27, and 28; and T36S, R22E, Sections 13, 14, 22, and 23.

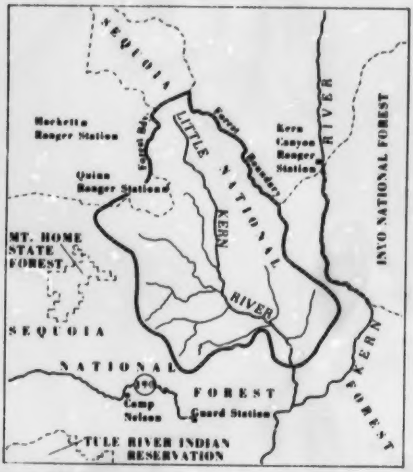
NOTE: Map follows.

Constituent elements of all areas proposed as critical habitat include streams 15 feet to 60 feet wide with gravel-bottom shoal and riffle areas with intervening pools. Streams should have clean, unpolluted flowing water and a stable riparian zone. The streams should support a variety of aquatic insects, crustaceans, and other small invertebrates for food.

LITTLE KERN GOLDEN TROUT (*Salmo aguabonita whitei*)

California, Tulare County. Little Kern River, main channel and all streams tributary to the Little Kern River above barrier falls located on the Little Kern River one mile below the mouth of Trout Meadows Creek.

NOTE: Map follows.

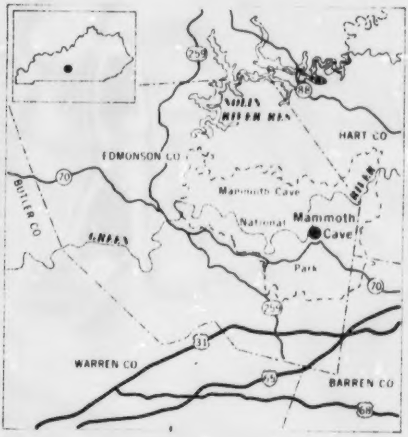

SEQUOIA
Hockett Ranger Station
Quinn Ranger Station
Forest Bdy.
Forest Boundary
LITTLE KERN
NATIONAL
RIVER
Kern Canyon Ranger Station
RIVER
INYO NATIONAL FOREST
MT. HOME STATE FOREST
SEQUOIA
NATIONAL
FOREST
190
Camp Nelson
Guard Station
KERN
FOREST
TULE RIVER INDIAN RESERVATION

(h) *Crustaceans.*

KENTUCKY CAVE SHRIMP (*Palaemonias ganteri*)

Kentucky, Edmonson County: The Roaring River passage of the Flint-Mammoth Cave System in Mammoth Cave National Park.

NOTE: Map follows.


259
NOLIN RIVER RES.
88
HART CO
EDMONSON CO
70
BUTLER CO
GREEN
Mammoth Cave
National
Park
Mammoth Cave
70
259
31
WARREN CO
65
BARREN CO
68

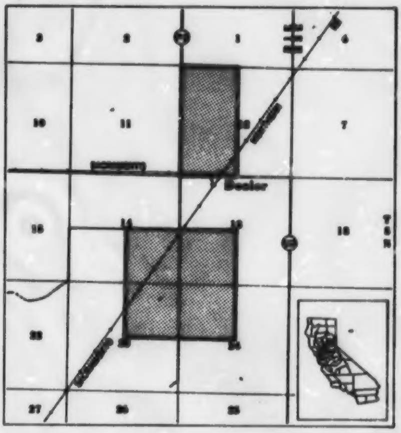
Known constituent elements include a stream in a base level cave passage with abundant organic material and sediments consisting of coarse silt and very coarse to very fine sand.

(i) *Insects.*

DELTA GREEN GROUND BEETLE (*Elaphrus viridis*)

California. Solano County. T.5N. R.1E. West ½ Sec. 12, southwest ¼ Sec. 13, southeast ¼ Sec. 14, northeast ¼ Sec. 23, northwest ¼ Sec. 24.

NOTE: Map follows.


2
3
1
6
10
11
12
7
Dozier
15
14
13
18
T5N
22
23
24
27
26
25

VALLEY ELDERBERRY LONGHORN BEETLE (*Desmocerus californicus dimorphus*)
California. Sacramento County.

(1) *Sacramento Zone.* An area in the city of Sacramento enclosed on the north by the Route 160 Freeway, on the west and southwest by the Western Pacific railroad tracks, and on the east by Commerce Circle and its extension southward to the railroad tracks.

NOTE: Map follows.

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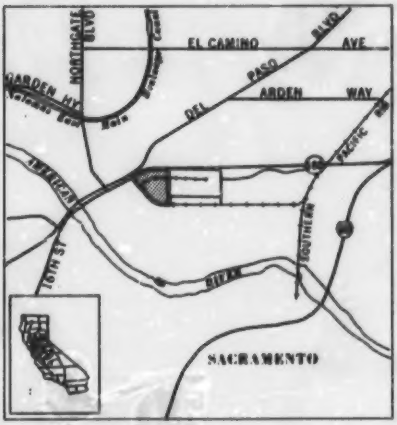
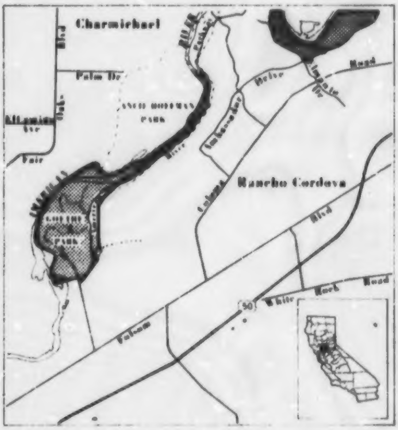

EL CAMINO AVE
NORTHGATE BLVD
GARDEN HWY
ARDEN WAY
DEL PASO BLVD
AMERICAN RIVER
16TH ST
SOUTHERN PACIFIC
SACRAMENTO

(2) *American River Parkway Zone.* An area of the American River Parkway on the south bank of the American River, bounded on the north by latitude 30°37'30"N, on the west and southwest by Elmanto Drive from its junction with Ambassador Drive to its extension to latitute 38°37'30"N, and on the south and east by Ambassador Drive and its extension north to latitude 38°37'30"N. Goethe Park, and that portion of the American River Parkway northeast of Goethe Park, west of the Jedediah Smith Memorial Bicycle Trail, and north to a line extended eastward from Palm Drive.

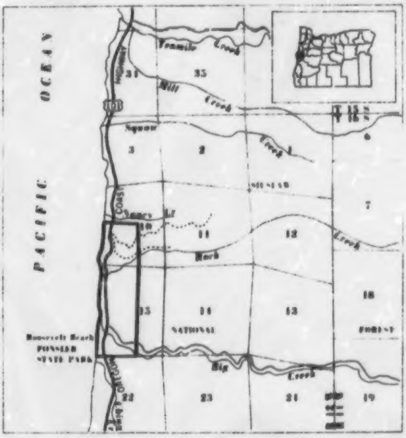
NOTE: Map follows.


Carmichael
Palm Dr
Rancho Cordova
Goethe Park
American River
Folsom
White Rock Road
50

OREGON SILVERSPOT BUTTERFLY (*Speyeria zerene hippolyta*)

Oregon. Lane County T. 16 S., R. 12 W. Those portions of section 15 and of the south half of section 10 which are west of a line parallel to, and 1500 feet west of, the eastern section boundaries of sections 10 and 15.

NOTE: Map follows.


PACIFIC OCEAN
Tenmile Creek
Mill Creek
Squaw Creek
Big Creek
101

Constituent biological elements essential to the continued existence of the Oregon silverspot butterfly within the Critical Habitat include the larval foodplant (*Viola adunca*), grasses and forbs in which the larvae find shelter, the composite plants from which the adults obtain nectar, and the spruce woods in which the adults find shelter.

PALOS VERDES BLUE BUTTERFLY (*Glaucopsyche lygdamus palosverdesensis*)

California. Los Angeles County.

1. Agua Amarga Canyon Zone. Palos Verdes Estates. A square area of land 0.4 x 0.4 kilometers located at the southeast corner of the southernmost corporate boundary of Palos Verdes Estates.

2. Frank Hesse Park Zone. Rancho Palos Verdes. An area encolosed by Hawthorne Boulevard, Locklenna Lane, and Verde Drive.

NOTE: Map follows.

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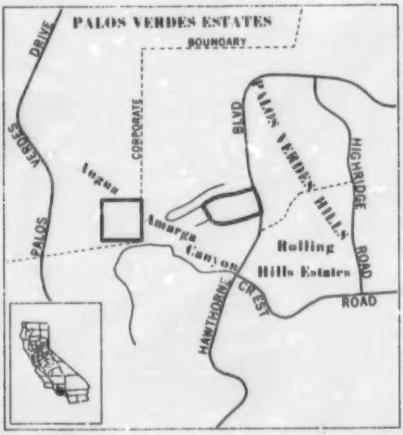
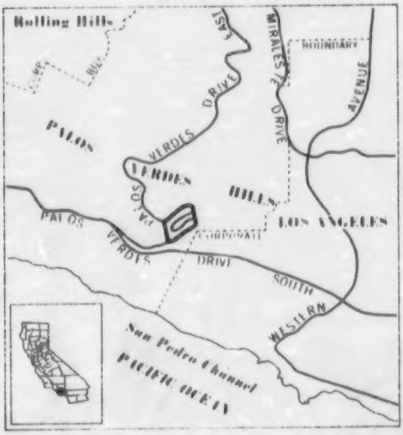

PALOS VERDES ESTATES
BOUNDARY
CORPORATE
DRIVE
VERDES
PALOS
Agua
Amarga
Canyon
BLVD
PALOS VERDES HILLS
HIGHRIDGE
ROAD
Rolling
Hills Estates
HAWTHORNE
CREST
ROAD

3. Palos Verdes Drive Zone. Rancho Palos Verdes. The Switchback area of Palos Verdes Drive East, bounded by a line connecting the two eastern curves, a line parallel to and 0.3 kilometers southwest of this line, and the upper and lower portions of Palos Verdes Drive East.

NOTE: Map follows.


Rolling Hills
CORP
BDY
EAST
DRIVE
VERDES
PALOS
VERDES
HILLS
MIRALESTE
DRIVE
BOUNDARY
AVENUE
LOS ANGELES
CORPORATE
PALOS
VERDES
DRIVE
SOUTH
WESTERN
San Pedro Channel
PACIFIC OCEAN

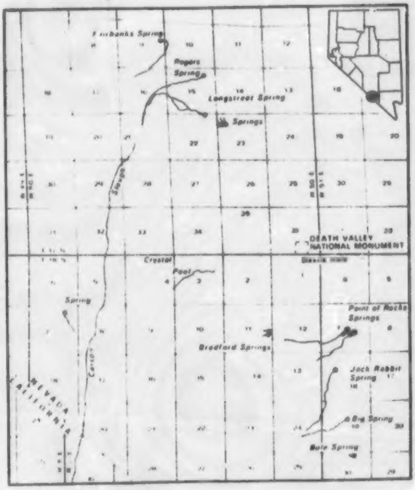
Within these Critical Habitat areas, the known biological constituent elements essential to the conservation of this species are colonies of the larval foodplant, *Astragalus trichopodus leucopsis.*

ASH MEADOWS NAUCORID (*Ambrysus amargosus*)

Nevada, Nye County, Point of Rocks Springs and their immediate outflows in SE¼ sec. 7, T18S, R51E.

Known primary constituent elements include flowing warm water over rock and gravel substrate.

NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
DEATH VALLEY NATIONAL MONUMENT
Crystal
Pool
Spring
Bradford Springs
Point of Rocks Springs
Jack Rabbit Spring
Big Spring
Carson
NEVADA
CALIFORNIA

[42 FR 47840, Sept. 22, 1977]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 17.95, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

Family Asteraceae—*Enceliopsis nudicaulis* var. *corrugata* (Ash Meadows sunray). Nevada, Nye County, Ash Meadows: SW¼SE¼ sec. 15, SW¼NE¼ and W½SE¼ sec. 21, NW¼NE¼ sec. 22, E½SE¼ sec. 34, SW¼NE¼, S½NW¼, SW¼, and W½SE¼ sec. 35, T17S R50E. SE¼ sec. 20, T17S, R51E. NW¼, SW¼, and W½SE¼ sec. 1, E½NE¼, SW¼NW¼, NW¼SW¼, and E½SE¼ sec. 2, NE¼NW¼S. 12, E½SW¼ and W½SE¼ sec. 13, T18S, R50E. SW¼SE¼ sec. 7, NW¼NE¼ and SE¼SW¼ sec. 18, T18S, R51E.

Known primary constituent elements include dry washes or whitish saline soil associated with outcrops of pale whitish limestone.

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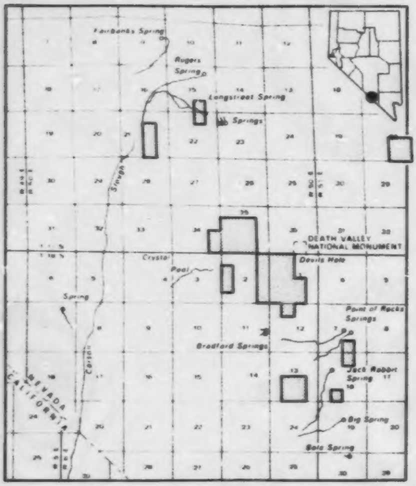
NOTE: Map follows.

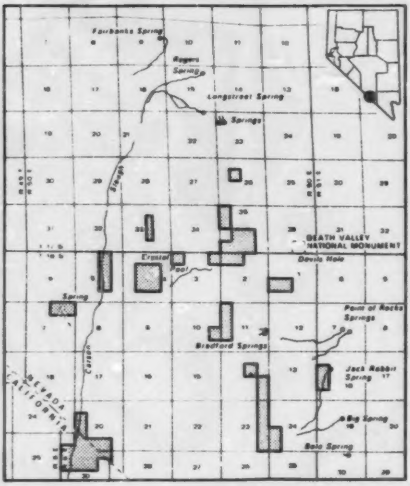

Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
Crystal Pool
Spring
Carson
DEATH VALLEY NATIONAL MONUMENT
Devils Hole
Point of Rocks Springs
Bradford Springs
Jack Rabbit Spring
Big Spring
Bole Spring
NEVADA
CALIFORNIA

Family Asteraceae—*Grindelia fraxinopratensis* (Ash Meadows gumplant). California, Inyo County, Ash Meadows: NE¼, E½NW¼, SW¼NW¼, N½SW¼, and NW¼SE¼ sec. 30, T26N, R6E.

Nevada, Nye County, Ash Meadows: SE¼NW¼ sec. 26, W½SW¼NE¼ and W½NW¼SE¼ sec. 33, W½NW¼, SW¼SW¼, E½SE¼, and W½SE¼ sec. 35, T17S, R50E. N½SW¼ sec. 1, N½NW¼ sec. 2, NE¼NE¼ and NW¼NW¼ sec. 3, SW¼NE¼, SE¼NW¼, NE¼SW¼, and, NW¼SE¼ sec. 4; W½NE¼ and NW¼SE¼ sec. 5, N½NE¼ sec. 7, NE¼SE¼ sec. 10, W½NW¼ and NW¼SW¼ sec. 11, SW¼NE¼ and E½SE¼ sec. 14; SW¼NW¼, SW¼SE¼, W½SW¼, and SE¼SW¼ sec. 20 northeast of the Nevada-California boundary, E½NE¼ and E½SE¼ sec. 23, W½SW¼ sec. 24, NW¼NE¼ sec. 29 northeast of the Nevada-California boundary, T18S, R50E. SW¼NW¼ and NW¼SW¼ sec. 18, T18S, R51E.

Known primary constituent elements include saltgrass meadows along streams and pools or drier areas with alkali clay soils.

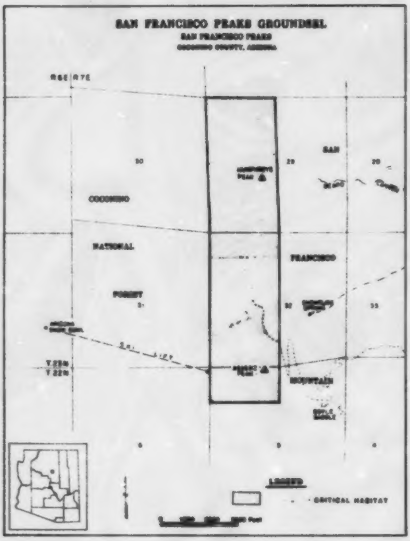
NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
Crystal Pool
Spring
Carson
DEATH VALLEY NATIONAL MONUMENT
Devils Hole
Point of Rocks Springs
Bradford Springs
Jack Rabbit Spring
Big Spring
Bole Spring
NEVADA
CALIFORNIA

Family *Asteraceae: Senecio franciscanus* (San Francisco Peaks groundsel).

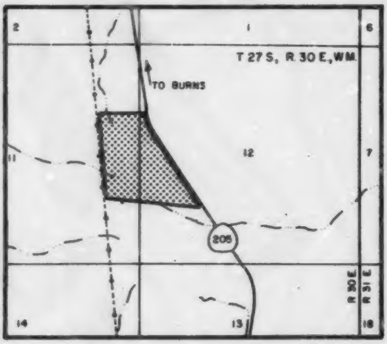
Arizona: Coconino County; Coconino National Forest, Agassiz Peak and Humphreys Peak, T22N, R7E, N½ of NW¼ Sec. 5; T23N, R7E, W½ Section 32 and W½ Section 29. Primary constituent elements are the loose cinder talus slopes of the alpine tundra system of the San Francisco Peaks and absence of disturbance and damage from hikers.

NOTE: Map follows.


SAN FRANCISCO PEAKS GROUNDSEL
SAN FRANCISCO PEAKS
COCONINO COUNTY, ARIZONA
R6E R7E
30
29
28
SAN
COCONINO
NATIONAL
FRANCISCO
FOREST
31
32
33
T 23N
T 22N
MOUNTAIN
6
5
4
LEGEND
CRITICAL HABITAT

Family *Asteraceae:* Malheur wire-lettuce (*Stephanomeria malheurensis*). Oregon, Harney County; the lands west of State Highway 205 within the SE ¼ of the NE ¼ and the NE ¼ of the SE ¼, Section 11; and the W ½ of the SW ¼ of the NW ¼, and the SW ¼ of the NE ¼ of the SW ¼, and the NW ¼ of the SW ¼, Section 12, T27S, R30E, Willamette Meridian.

NOTE: Map follows.

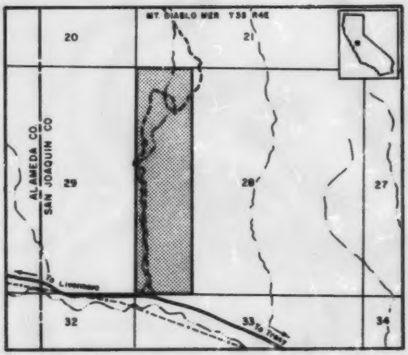

2
1
6
T 27 S, R 30 E, W.M.
TO BURNS
11
12
7
205
R 30 E
R 31 E
14
13
18

Boraginaceae: *Amsinckia grandiflora* (large-flowered fiddleneck)

California, San Joaquin County, Mount Diablo Meridian, T3S R4E Section 28 W½ NW¼ and W½ SW¼.

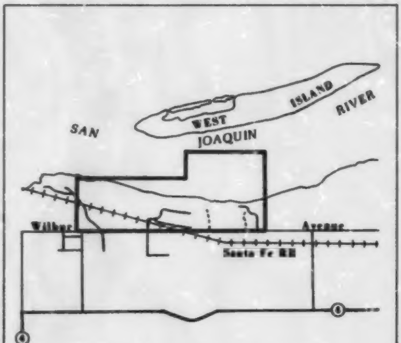
This includes the known primary constituent elements of a steep, west- and south-facing slope with light textured but stable soils.

NOTE: Map follows.


MT. DIABLO MER. T3S R4E
20
21
ALAMEDA CO.
SAN JOAQUIN CO.
29
28
27
To Livermore
32
33
To Tracy
34

Family *Brassicaceae:* Contra Costa Wallflower (*Erysimum capitatum* var. *angustatum*). *California.* An area of land, water, and airspace in Contra Costa County, with the following components: T. 2 N. R. 2 E. SW¼ section 17, E½ of S½ of section 18.

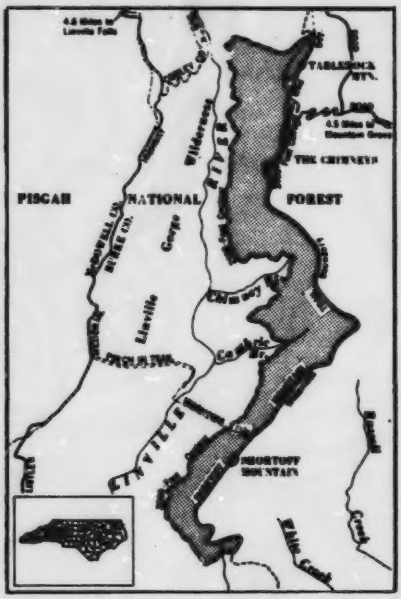
NOTE: Map follows.


SAN
WEST
ISLAND
JOAQUIN
RIVER
Wilbur
Avenue
Santa Fe RR
4
4

Family *Cistaceae:* Mountain golden heather (*Hudsonia montana*) North Carolina; Burke County; the areas bounded by the following: on the west by the 2200′ contour;

on the east by the Linville Gorge Wilderness Boundary north from the intersection of the 2200′ contour and the Shortoff Mountain Trail to where it intersects the 3400′ contour at "The chimneys"—then following the 3400′ contour north until it reintersects the Wilderness Boundary—then following the Wilderness Boundary again northward until it intersects the 3200′ contour extending west from its intersection with the Wilderness Boundary until it begins to turn south—at this point the Boundary extends due east until it intersects the 2200′ contour.

NOTE: Map follows.

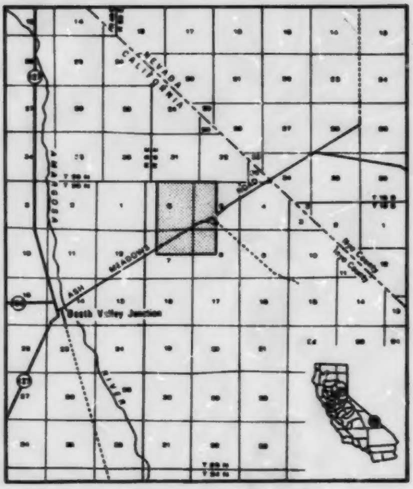


4.8 Miles to Linville Falls
TABLEROCK MTN.
4.5 Miles to
THE CHIMNEYS
PISGAH
NATIONAL
FOREST
Wilderness
RIVER
Gorge
Linville
Chimney
Cambric Br.
LINVILLE
SHORTOFF MOUNTAIN
Creek

Family Chenopodiaceae—*Nitrophila mohavensis* (Amargosa niterwort). California, Inyo County, Ash Meadows: W½ sec. 5, E½ sec. 6, NE¼ and E½NW¼ sec. 7, NW¼ sec. 8, T25N, R6E.

Known primary constituent elements include salt-encrusted alkaline flats.

NOTE: Map follows.

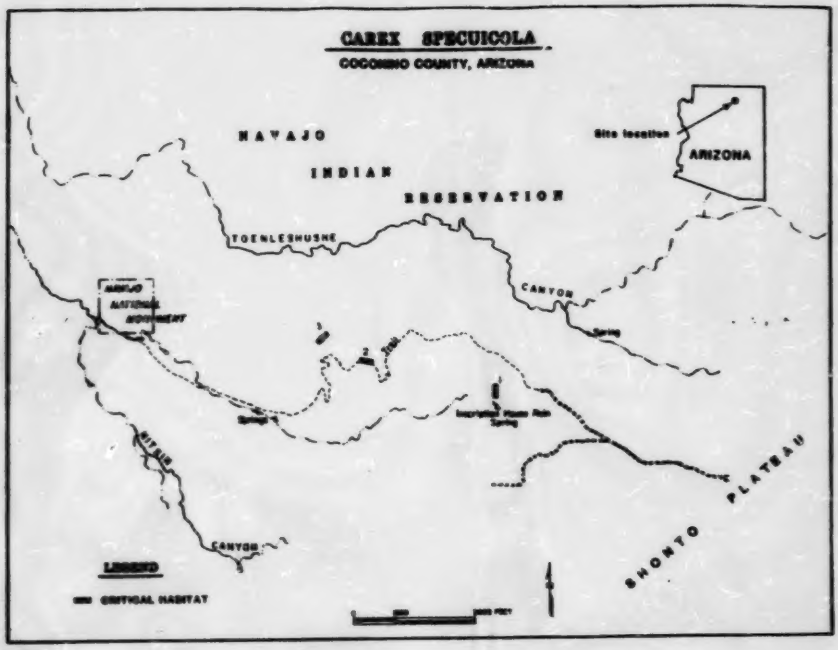


NEVADA
CALIFORNIA
AMARGOSA
ASH MEADOWS
Death Valley Junction
RIVER

Cyperaceae—*Carex specuicola*

Arizona: Coconino County; Navajo Indian Reservation. A 40 x 5 meter rectangular area, with its long axis in the direction of seep-spring flow, around each of the following points: (1) Latitude 36°39′53″ N, longitude 110°47′18″ W; (2) latitude 36°40′07″ N, longitude 110°47′55″ W; and (3) latitude 36°40′18″ N, longitude 110°48′15″ W. Primary constituent elements include moist sandy to silty soils at shady seep-springs within the Navajo Sandstone Formation.

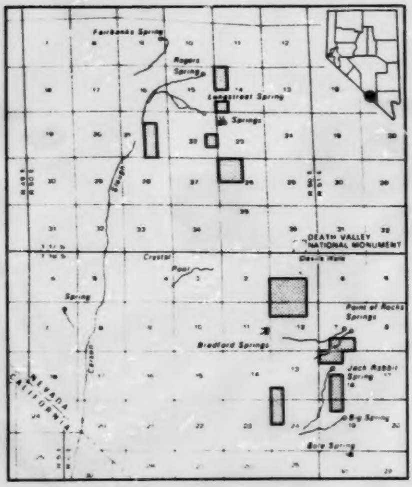
NOTE: Map follows:


CAREX SPECUICOLA
COCONINO COUNTY, ARIZONA
NAVAJO
INDIAN
RESERVATION
Site location
ARIZONA
TOENLESHUSHE
CANYON
Spring
NAVAJO
NATIONAL
MONUMENT
3
2
Trail
Spring
Inscription House Ruin
Spring
KIT SIL
CANYON
SHONTO PLATEAU
LEGEND
CRITICAL HABITAT
0
FEET

Family Fabaceae—*Astragalus phoenix* (Ash Meadows milk-vetch). Nevada, Nye County, Ash Meadows: W½NW¼ and SW¼SW¼ sec. 14, SW¼NE¼ and W½SE¼ sec. 21, NE¼SE¼ sec. 22, NW¼ sec. 26, T17S, R50E. SW¼ and W½SE¼ sec. 1, NW¼NE¼ and N½NW¼ sec. 12, SW¼SW¼ sec. 13, W½NW¼ sec. 24, T18S, R50E. SE¼SW¼ and SW¼SE¼ sec. 7, N½NW¼ and E½SW¼ sec. 18, NE¼NW¼ sec. 19, T18S, R51E.

Known primary constituent elements include dry, hard, white, barren, saline, clay flats, knolls, and slopes.

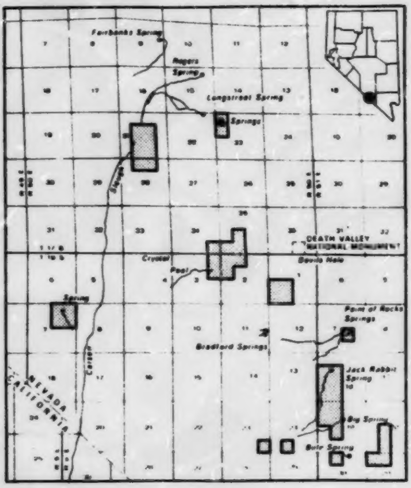
NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
DEATH VALLEY NATIONAL MONUMENT
Devils Hole
Crystal
Pool
Spring
Point of Rocks Springs
Bradford Springs
Jack Rabbit Spring
Carson
NEVADA
CALIFORNIA
Big Spring
Bole Spring

Family Gentianaceae—*Centaurium namophilum* (spring-loving centaury). Nevada, Nye County, Ash Meadows: SW¼NE¼, SE¼NW¼, E½SW¼, and W½SE¼ sec. 21; W½NW¼ sec. 23, NW¼NE¼ and NE¼NW¼ sec. 28, SE¼SE¼ sec. 34, SW¼SW¼ and E½SW¼ sec. 35, T17S, R50E. SW½ sec. 1, NE¼NW¼ and W½NW¼ sec. 2, E½NE¼ sec. 3, NE¼ sec. 7; SE¼SE¼ sec. 23, SE¼SW¼ sec. 24, T18S, R50E. NW¼SE¼ sec. 7, S½NW¼ and SW¼ sec. 18, NW¼ and NE¼SE¼ sec. 19, E½SW¼ sec. 20, N½NW¼ sec. 29, NE¼NW¼ sec. 30, T18S, R51E.

Known primary constituent elements include moist to wet clay soils along banks of streams or in seepage areas.

NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
DEATH VALLEY NATIONAL MONUMENT
Devils Hole
Crystal
Pool
Spring
Point of Rocks Springs
Bradford Springs
Jack Rabbit Spring
Carson
NEVADA
CALIFORNIA
Big Spring
Bole Spring

Family *Lamiaceae*: *Hedeoma apiculatum* (McKittrick pennyroyal) Texas, Culberson County; 3 areas in Guadalupe Mountains National Park: 85 acres in Devil's Den Canyon; 60 acres above Turtle Rock on McKittrick Ridge and 180 acres in South McKittrick Canyon.

1. Devil's Den Canyon: from the 5,400′ contour on the canyon floor (1.1 km northwest of Pratt Lodge) and along the sides of the canyon southwestward following the 6,000′ contour on the north side of the canyon (beginning at Texas coordinates 19,892 m E., 39,169 m N.) and the 6,200′ contour on the south side (beginning at Texas coordinates 19,699 m E., 38,651 m N.) to approximately the 6,000′ elevation point of the canyon floor.

2. Above Turtle Rock on McKittrick Ridge: high ridge surrounding unnamed peak 2.65 km southwest of Pratt Lodge and located 19,073 m E., 36,439 m N. on the Texas coordinate system. The boundaries defined approximately by the 6,800′ contour on the southeast, southwest, and northeast and by the 7,400′ contour on the northwest. The 7,400′ contour connected to the 6,800′ contour by a line passing through Texas coordinates 18,699 m E., 36,530 m N., and 18,781 m E., 36,854 m N. on the southwest and coordinates 19,145 m E., 36,819 m N., and 19,000 m E., 36,952 m N. on the northeast.

3. South McKittrick Canyon: from the 5,400′ contour on the canyon floor (2.2 km southwest of Pratt Lodge) and southwestward along the sides of the canyon following the 5,800′ contour on the north side of

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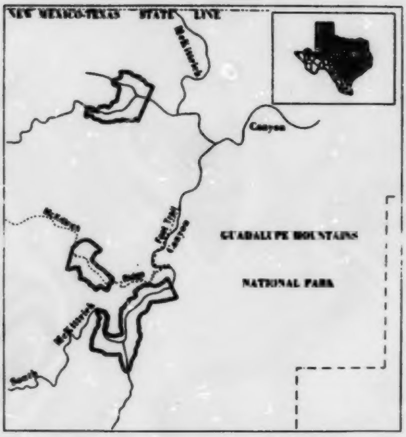
the canyon (beginning at Texas coordinates 20,169 m E., 36,434 m N.) and the 6,200′ contour on the south side of the canyon (beginning at Texas coordinates 20,289 m E., 36,121 m N.) to the 5,800′ contour of the canyon floor.

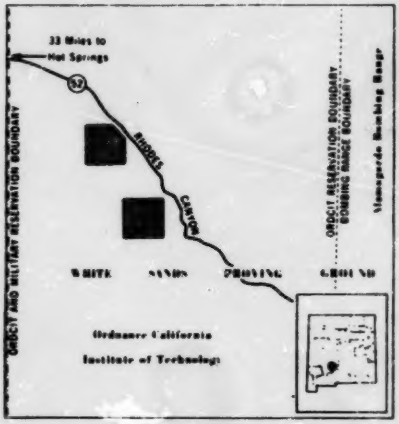
NOTE: Map follows.


NEW MEXICO-TEXAS STATE LINE
McKittrick
Canyon
GUADALUPE MOUNTAINS
NATIONAL PARK
Canyon
McKittrick

Family *Lamiaceae:* Todsens pennyroyal (*Hedeoma todsenii*).

New Mexico; Sierra County; the Critical Habitat of *Hedeoma todsenii* is best defined by two one-square kilometer sections on the 1000 m2 Universal Transverse Mercator Grid, Zone 13. The more northern critical habitat lies between 76 and 77,000 m N and 39 and 40,000 m E. The southern area lies between 74 and 75,000 m N and 40 and 41,000 m E. Gypsum limestone soils.

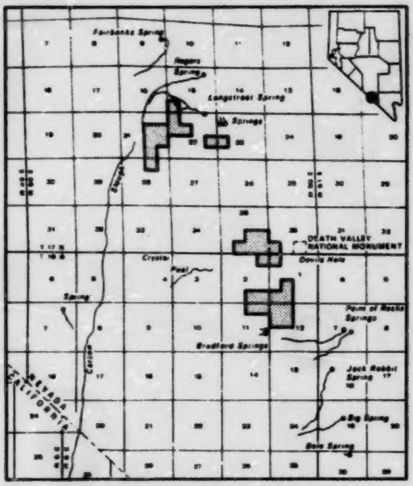
NOTE: Map follows.


33 Miles to
Hot Springs
52
RHODES
CANYON
ORDCIT AND MILITARY RESERVATION BOUNDARY
ORDCIT RESERVATION BOUNDARY
BOMBING RANGE BOUNDARY
Alamogordo Bombing Range
WHITE SANDS PROVING GROUND
Ordnance California
Institute of Technology

Family Loasaceae—*Mentzelia leucophylla* (Ash Meadows blazing star). Nevada, Nye County, Ash Meadows: SW¼SW¼ sec. 15, S½NE¼, N½SE¼, and SW¼SE¼ sec. 21, NW¼NW¼, S½NW¼, and NE¼SE¼ sec. 22, NW¼SW¼ sec. 23, NW¼NE¼ sec. 26, SE¼SW¼ and SE¼ sec. 35, SW¼SW¼ sec. 36, T17S, R50E. NW¼NW¼, SW¼SW¼, and E½SW¼ sec. 1, NE¼NE¼ and S½SE¼ sec. 2, N½NE¼ sec. 11, NW¼ sec. 12, T18S, R50E.

Known primary constituent elements include sandy or saline clay soils along canyon washes and near springs and seeps.

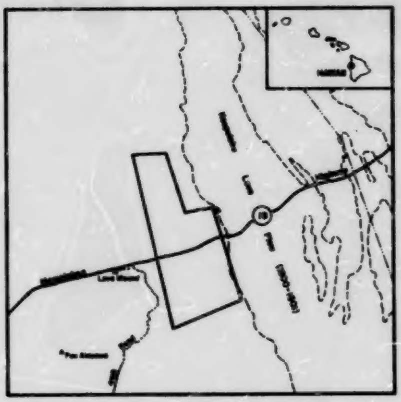
NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
DEATH VALLEY NATIONAL MONUMENT
Devils Hole
Crystal
Pool
Spring
Point of Rocks Springs
Bradford Springs
Jack Rabbit Spring
Big Spring
Bole Spring
NEVADA
CALIFORNIA
T 17 S
T 18 S

Malvaceae—*Kokia drynarioides* (koki'o). Hawaii, Island and County of Hawaii, North Kona District, three areas totaling approximately 2,600 acres.

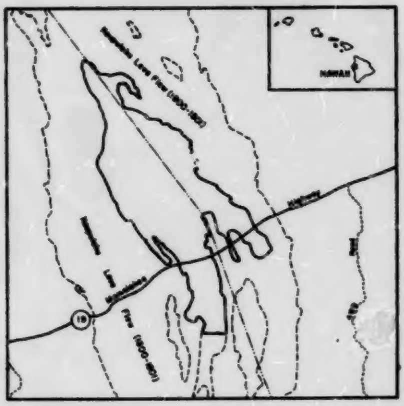
1. Ka'upulehu Ahupua'a area, bounded as follows: from a point of origin at Universal Transverse Mercator (UTM) coordinate 925880 near or on the west boundary of the Ka'upulehu 1800-1801 lava flow (approximately at intersection of said west boundary and 2600 ft elevation contour); thence west southwesterly approximately 864 ft to UTM coordinate 914875 (also near 2600 ft elevation contour); thence north northwesterly approximately 1987 ft to UTM coordinate 909699 (near the 1400 ft elevation contour); thence east northeasterly approximately 378 ft to UTM coordinate 913900 (also near the 1400 ft elevation contour; then south southeasterly approximately 720 ft to UTM coordinate 916891; thence east northeasterly approximately 320 ft to UTM coordinate 920692 (near the said west boundary of the 1800-1801 lava flow); thence south southeasterly approximately 1140 ft to the point of origin. Included in this area is Ka'upulehu Forest Reserve, Section B.

Note: Map follows.



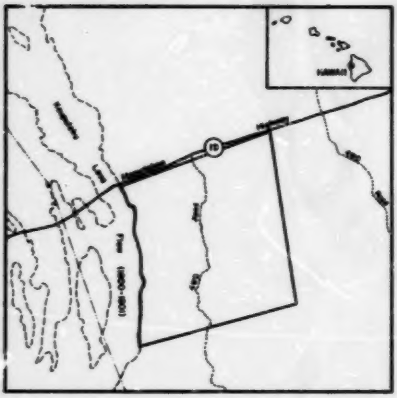
2. Ka'upulehu Ahupua'a and Pu'uwa'awa'a Ahupua'a boundary area, identified as follows: An unnamed kipuka (discontinuity) in 1800-1801 lava that straddles the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a and also crosses Mamalahoa Highway between 2400 and 1000 feet of elevation. Excluded is a small tongue of the said kipuka that extends south of UTM coordinate 941885 at approximately 2400 ft of elevation and above. UTM coordinate 931924 marks the low elevation end of the said kipuka.

Note: Map follows.


HAWAII
Lava Flow (1800-1801)
Highway
Flow (1800-1801)
19

3. Pu'uwa'awa'a Ahupua'a area, identified as follows: Halepi'ula 3, Waimea Paddock of Pu'uwa'awa'a Ranch, which lies south of (upslope) and abuts Mamalahoa Highway just east of the boundary between Ka'upulehu and Pu'uwa'awa'a Ahupua'a. East boundary of the 1800-1801 Ka'upulehu lava flow is the west boundary of the paddock. The paddock corners are near UTM coordinates 948901 (NW), 985909 (NE) 973886 (SE), and 971879 (SW).

NOTE: Map follows.

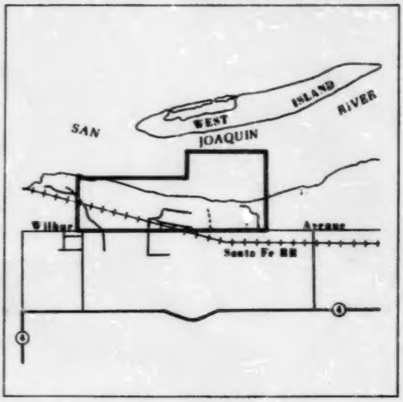


Hawaii
19
Flow (1800-1801)

Primary constituent elements of critical habitat are appropriate soil type, climate, protection from grazing damage, protection from aggressive exotic weeds, and presence of suitable pollinators.

Family *Onagraceae:* Antioch Dunes Evening-Primrose (*Oenothera deltoides* ssp. *howellii*). California. An area of land, water, and airspace in Contra Costa County with the following components: T. 2 N. R. 2 E. SW¼ section 17, E½ of S½ of section 18.

NOTE: Map follows.

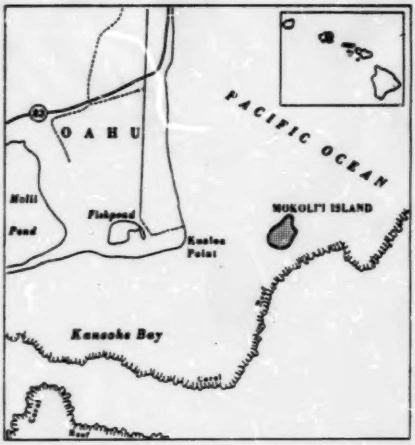


SAN
JOAQUIN
RIVER
WEST
ISLAND
Wilbur
Avenue
Santa Fe RR
4
4

Family *Poaceae:* Carter's panicgrass (*Panicum carteri*) Hawaii: City and County of Honolulu: Entire island of Mokoli'i (see map).

Probable primary constituent elements include: Exposure to strong sunlight; low rainfall; exposure to sea spray; and presence of gravelly, basalt-derived soil.

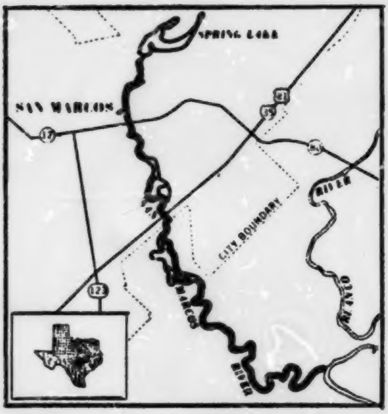
NOTE: Map follows.



83
O A H U
PACIFIC OCEAN
Molii
Pond
Fishpond
Kualoa
Point
MOKOLI'I ISLAND
Kaneohe Bay
Coral
Reef

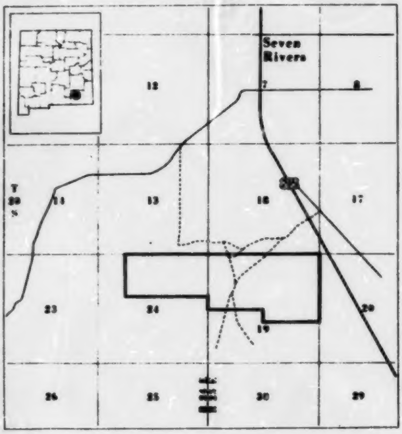
Family *Poaceae:* Texas Wild-Rice (*Zizania texana*) Texas, Hays County; Spring Lake and its outflow, the San Marcos River, downstream to its confluence with the Blanco River.

NOTE: Map follows.



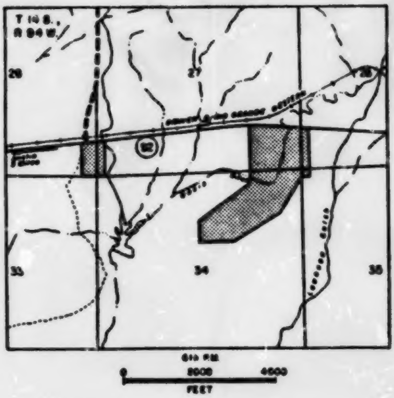
Family *Polygonaceae:* Gypsum Wild Buckwheat (*Eriogonum gypsophilum*) New Mexico; Eddy County; T20S, R25E, Section 19: N½, N½ NE¼ SE¼, N½ NW¼ SE¼; and T20S, R24E, Section 24: N½ NE¼, N½ S½ NE¼, NE¼ NW¼, N½ SE¼ NW¼; gypsum soils.

NOTE: Map follows.



Family *Polygonaceae: Eriogonum pelinophilum* (clay-loving wild-buckwheat). Colorado, Delta County. About 3 miles east of Austin near Highway 92. T14S, R94W 6th P.M. Section 26—west 225 feet of Section 26 lying south of State Highway 92 (5.6 acres). Section 27—that part of the SE¼SE¼ lying south of State Highway 92 (35.6 acres). Section 34—an area bounded by a line beginning at the northeast corner of Section 34, thence south along the section line 200 feet to a point; thence southwesterly to a point 1050 feet south and 550 feet west of the northeast corner of Section 34; thence southwesterly to a point 700 feet north and 900 feet east of center ¼ corner of Section 34; thence westerly 900 feet to the north-south ¼ line; thence northerly 600 feet along the ¼ line to a point; thence northeasterly to a point of the east ¹⁄₁₆ line; thence northerly along the ¹⁄₁₆ line 300 feet to the north section line of Section 34; thence easterly along the north section line to the point of beginning (65.0 acres). Section 35—north 200 feet of the west 225 feet (1.0 acres). Section 27—west 200 feet of Section 27 lying south of State Highway 92 (4.3 acres). Section 28—east 400 feet of Section 28 lying south of State Highway 92 (8.3 acres). Total 119.8 acres. The primary constituent elements include those factors associated with the whitish alkaline clay soils within the sparsely vegetated badlands of Mancos shale.

NOTE: Map follows.

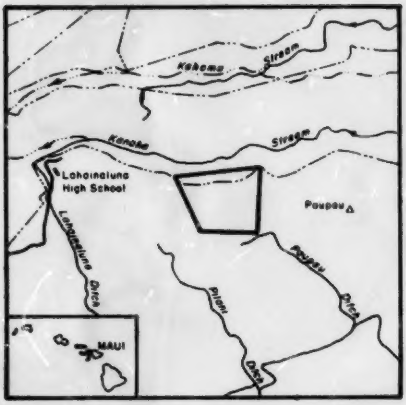


Family Rhamnaceae: *Gouania hillebrandii.* Hawaii, Maui County, Maui Island, Lahaina District, two zones located as follows:

(1) Pa'upa'u Zone, Ahupua'a of Kuia. The following Universal Transverse Mercator (UTM) designations form the corners of the quadrangular Pa'upa'u habitat area:

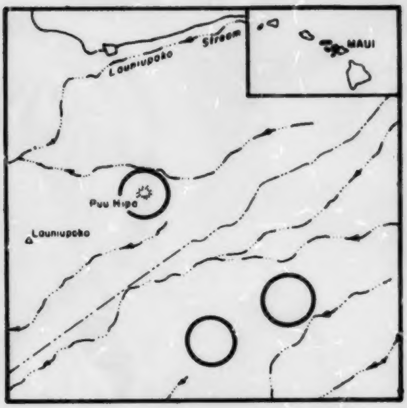
NW:0744123121
NE:0744723122
SW:0744223118
SE:0744723117

NOTE: Map follows.


Kahoma Stream
Kanaha Stream
Lahainaluna High School
Paupau
Lahainaluna Ditch
Pilani Ditch
Paupau Ditch
MAUI

(2) Lihau Zone, Ahupua'a of Kuia. This zone consists of three circular areas having radii of 0.1 mile on the western slopes of Lihau Mountain, one centered at Pu'u Hipa (near UTM 0746823070), one at UTM 0747723063, and the third at UTM 0747223059.

NOTE: Map follows.

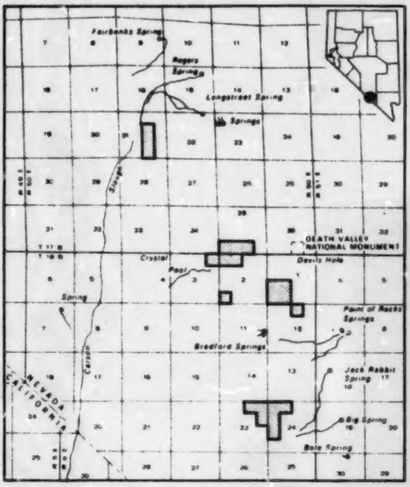

Launiupoko Stream
MAUI
Puu Hipa
Launiupoko

Primary constituent habitat elements are considered to be climatic and edaphic factors that discourage introduced plant competitors and insect pests, and freedom from unrestricted browsing and trampling by domestic or feral livestock.

Family Rosaceae—*Invesia eremica* (Ash Meadows invesia). Nevada, Nye County, Ash Meadows: SW¼NE¼ and W½SE¼ sec. 21, S½SW¼ and SW¼SE¼ sec. 35, T17S, R50E. SW¼ sec. 1, N½NW¼ and SW¼SW¼ sec. 2, NE¼NE¼ sec. 3, NW¼NE¼ sec. 12, N½NE¼ and SE¼NE¼ sec. 23, N½NW¼, SW¼NW¼, and NW¼SW¼ sec. 24, T18S, R50E.

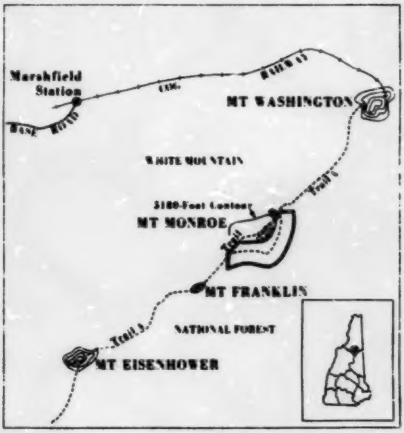
Known primary constituent elements include saline seep areas of light colored clay uplands.

NOTE: Map follows.


Fairbanks Spring
Rogers Spring
Longstreet Spring
Springs
Slough
DEATH VALLEY NATIONAL MONUMENT
Crystal Pool
Devils Hole
Spring
Point of Rocks Springs
Bradford Springs
Carson
Jack Rabbit Spring
NEVADA
CALIFORNIA
Big Spring
Bole Spring

Family *Rosaceae:* Robbins cinquefoil (*Potentilla robbinsiana*). New Hampshire, Coos County; the area is a strip of land 4,066 feet long and 450 feet wide with east and west boundaries running parallel to Trail A (see map): starting at the north junction of Trail A and B and ending at their southern junction with two-thirds of the strip (300 ft.) lying to the east and south of Trail A and with one-third (150 ft.) lying to the west and north of Trail A.

NOTE: Map follows.


Marshfield Station
MT WASHINGTON
WHITE MOUNTAIN
Trail A
3100-Foot Contour
MT MONROE
Trail B
MT FRANKLIN
NATIONAL FOREST
Trail B
MT EISENHOWER

[43 FR 39043, Aug. 31, 1978]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 17.96, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart J—Manatee Protection Areas

AUTHORITY: Marine Mammal Protection Act of 1972, 86 Stat. 1027, as amended, 101(a), 102(a)(2), 104, 105, 112(a) (16 U.S.C. 1371(a), 1372(a)(2), 1374, 1375, and 1382(a)); Endangered Species Act of 1973, 87 Stat. 884, as amended, 4 (d) and (f), 9(a)(1)(G), and 11(a)(1) (16 U.S.C. 1533 (d) and (f), 1538(a)(1)(G), and 1540(a)(1))

SOURCE: 44 FR 60964, Oct. 22, 1979, unless otherwise noted.

§ 17.100 Purpose.

This subpart provides a means for establishing manatee protection areas without waters under the jurisdiction of the United States, including coastal waters adjacent to and inland waters within the several States, within which certain waterborne activities will be restricted or prohibited for the purpose of preventing the taking of manatees.

§ 17.101 Scope.

This subpart applies to the West Indian manatee (*Trichechus manatus*), also known as the Florida manatee and as the sea cow. The provisions of this subpart are in addition to, and not in lieu of, other regulations contained in this Chapter I which may require a permit or prescribe additional restrictions on the importation, exportation, transportation, or taking of wildlife, and the regulations contained in Title 33, CFR, which regulate the use of navigable waters.

§ 17.102 Definitions.

In addition to definitions contained in the Acts, Part 10 of this subchapter, and § 17.3 of this part, and unless the context otherwise requires, in this subpart:

"Acts" means the Endangered Species Act of 1973, as amended (87 Stat. 884, 16 U.S.C. 1531-1543) and the Marine Mammal Protection Act of 1972, as amended (86 Stat. 1027, 16 U.S.C. 1361-1407);

"Authorized officer" means any commissioned, warrant, or petty officer of the U.S. Coast Guard, or any officer or agent designated by the Director of the U.S. Fish and Wildlife Service, the Secretary of the Interior, the Secretary of Commerce, or the Secretary of the Treasury, or any officer designated by the head of a Federal or State agency which has entered into an agreement with the Secretary of the Interior, Secretary of Commerce, Secretary of the Treasury, or Secretary of Transportation to enforce the Acts, or any Coast Guard personnel accompanying and acting under the direction of a person included above in this definition;

"Manatee protection area" means a manatee refuge or a manatee sanctuary;

"Manatee refuge" means an area in which the Director has determined that certain waterborne activity would result in the taking of one or more manatees, or that certain waterborne activity must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment;

"Manatee sanctuary" means an area in which the Director has determined that any waterborne activity would result in a taking of one or more manatees, including but not limited to a taking by harassment;

"Waterborne activity" includes, but is not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations;

"Water vehicle" includes, but is not limited to, boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, across, or underneath the surface of the water.

§ 17.103 Establishment of protection areas.

The Director may, by regulation issued in accordance with 5 U.S.C. 553 and 43 CFR Part 14, establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees. Any regulation establishing a manatee protection area shall state the following information:

(a) Whether the area is to be a manatee sanctuary or refuge.

(1) If the area is to be a manatee sanctuary, the regulation shall state that all waterborne activities are prohibited.

(2) If the area is to be a manatee refuge, the regulation shall state which, if any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities.

(b) A description of the area sufficient enough so that its location and dimensions can be readily ascertained without resort to means other than published maps, natural or man-made physical reference points, and posted signs.

(c) Whether the designation is to remain in effect year-round, and if not, the time of year it is to remain in effect.

§ 17.104 Prohibitions.

Except as provided in § 17.105,

(a) *Manatee sanctuary.* It is unlawful for any person to engage in any waterborne activity within a manatee sanctuary.

(b) *Manatee refuge.* It is unlawful for any person within a particular manatee refuge to engage in any waterborne activity which has been specifically prohibited within that refuge, or to engage in any waterborne activity in a manner contrary to that permitted by regulation within that area.

(c) *State law.* It is unlawful for any person to engage in any waterborne activity prohibited by, or to engage in any waterborne activity in a manner contrary to that permitted by, any State law or regulation the primary purpose of which is the protection of manatees: *Provided:* that such State law or regulation has been issued as part of a program which is determined to be in accordance with the Endangered Species Act of 1973, pursuant to section 6(c) of that Act (16 U.S.C. 1535(c)) or has been approved as consistent with the Marine Mammal Protection Act of 1972 in accordance with section 109 of that Act (16 U.S.C. 1379) and 50 CFR 18.53.[1]

§ 17.105 Permits and exceptions.

(a) The Director may issue permits allowing the permittee to engage in any activity otherwise prohibited by this subpart. Such permits shall be issued in accordance with the provisions of § 17.22 of this part. Such permits shall be issued only for scientific purposes or for the enhancement of propagation or survival. All of the provisions of § 17.22 shall apply to the issuance of such permits, including those provisions which incorporate other sections by reference. Compliance with this paragraph does not by itself constitute compliance with any applicable requirements of Part 18.

(b) Any authorized officer may engage in any activity otherwise prohibited by this subpart if:

(1) The officer is acting in the performance of his or her official duties; and

(2) The activity is being conducted to directly protect any manatees, to enhance the propagation or survival of manatees, or is reasonably required to enforce the other provisions of this subpart.

(c) Any person may engage in any activity otherwise prohibited by this subpart if such activity is reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforeseen circumstances, or to render necessary assistance to persons or property.

(d) Any waterborne activity which would otherwise be prohibited by this subpart may be engaged in if it is conducted by or under a contract with a Federal agency and if the Secretary of Defense, in accordance with section 7(j) of the Endangered Species Act of 1973 (16 U.S.C. 1536(j)) makes a finding that such activity is necessary for reasons of national security. Such a finding must be made prior to the beginning of the activity or the designation of the protection area, whichever occurs later; except that in the case of an emergency establishment of a protection area under § 17.106, the finding must be made within 10 days after the beginning of the activity or the designation of the protection area, whichever occurs later.

§ 17.106 Emergency establishment of protection areas.

(a) The Director may establish a manatee protection area under the provisions of paragraphs (b) and (c) of this section at any time he determines there is substantial evidence that there is imminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such a taking.

(b) The establishment of a manatee protection area under this section shall become effective immediately upon completion of the following requirements:

(1) Publication of a notice containing the information required by § 17.103 of this section in a newspaper of general circulation in each county, if any, in which the protection area lies; and

(2) Posting of the protection area with signs clearly marking its boundaries.

(c) Simultaneously with the publication required by paragraph (b) of this section, the Director shall publish the same notice in the FEDERAL REGISTER. If simultaneous publication is impractical, because of the time involved or the nature of a particular emergency situation, failure to publish notice in the FEDERAL REGISTER simultaneously shall not delay the effective date of the emergency establishment. In such a case, notice shall be published in the FEDERAL REGISTER as soon as possible.

(d) No emergency establishment of a protection area shall be effective for more than 120 days. Termination of an emergency establishment of a protection area shall be accomplished by publishing notice of the termination in the FEDERAL REGISTER and in a newspaper of general circulation in each county, if any, in which the protection area lies.

(e) Within 10 days after establishing a protection area in accordance with this section, the Director shall commence proceedings to establish the area in accordance with § 17.103.

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[1] EDITORIAL NOTE: Section 18.53 was removed at 48 FR 22456, May 18, 1983. See the note at Part 18, Subpart F.

§ 17.107 Facilitating enforcement.

Water vehicles operating in manatee sanctuary or refuge waters are subject to boarding and inspection for the purpose of enforcing the Acts and these regulations.

(a) The operator of a water vehicle shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the water vehicle.

(b) Upon being approached by an authorized officer, the operator of a water vehicle shall be alert for signals conveying enforcement instructions.

(c) A water vehicle signaled for boarding shall:

(1) Guard channel 16, VHF-FM, if equipped with a VHF-FM radio;

(2) Stop immediately and lay to or maneuver in such a manner as to facilitate boarding by the authorized officer and his or her party;

(3) When necessary to facilitate the boarding, provide a safe ladder, manrope, safety line and illumination of the ladder; and

(4) Take such other actions as may be necessary to ensure the safety of the authorized officer and his or her party and to facilitate the boarding and inspection.

(d) It is unlawful for any person to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or member of his or her party.

§ 17.108 List of designated manatee protection areas.

(a) *Manatee sanctuaries.* The following areas are designated as manatee sanctuaries. All waterborne activities are prohibited in these areas during the period November 15–March 31 of each year. The areas which will be posted are described as follows:

(1) That part of Kings Bay, Crystal River, Citrus County, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N-1,653,459/E-308,915) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay near the southwest corner of Lot 9 as accepted on a plat by the Department of the Interior, General Land Office, dated January 10, 1928; thence easterly, along said shoreline, approximately 1240 feet to Corner 2 (N-1,653,762/E/309,641) a point; thence S. 56°58′11″ W., across open water, 776.49 feet to Corner 3 (N-1,653,339/E-308,990) a point; thence N. 32°03′07″ W., across open water, 142.26 feet to the point of beginning, containing 3.41 acres, more or less, to be known as the Banana Island Sanctuary.

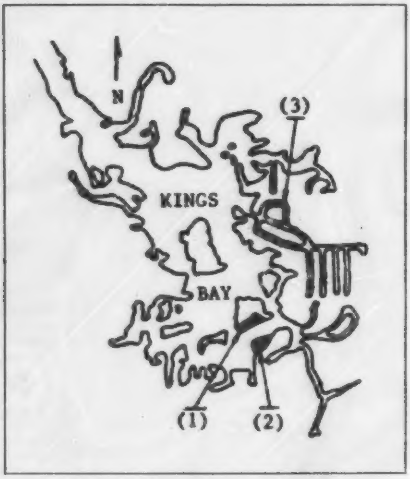
(2) That part of Kings Bay, Crystal River, Citrus County, Florida, within T. 18 S., R. 17 E., Tallahassee Meridian; located in SW¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1 (N-1,652,684/E-309,396) Florida Coordinate System, West Zone, a point on the shoreline of Kings Bay, said point being the northwest corner of Lot 31 Sunset Shores Addition to Woodward Park (Plat Book 2, page 140 Citrus County Property Appraiser's Office); thence N. 35°05′33″ W., across open water, 439.10 feet to Corner 2 (N-1,653,043/E-309,144) a point; thence N. 67°23′28″ E., across open water, 873.45 feet to Corner 3, a point on the shoreline of Kings Bay said point also being a corner in the northerly boundary line of Lot 21 in said subdivision; thence southwesterly along said shoreline and the northerly boundary of Lots 21-31, including a canal, approximately 920 feet to the point of beginning, containing 5.62 acres, more or less, to be known as the Sunset Shores Sanctuary.

(3) That part of Crystal River, Citrus County, Florida, within the Springs O'Paradise subdivision, T. 18 S., R. 17 E., Tallahassee Meridian; located in SE¼ and SW¼ fractional section 21 and NE¼ fractional section 28, more particularly described as follows:

Beginning at Corner 1, the southeast corner of Lot 3 Paradise Isle Subdivision (Plat Book 3, page 88 Citrus County Property Appraiser's Office); thence N. 89°48′30″ E. along an extension of the south line of said Lot 3, across Spring Run, approximately 120 feet to Corner 2, a point in the line of mean high water on the east side of Spring Run; thence northerly along said mean high water line approximately 500 feet to Corner 3, a point in the line of mean high water on the north side of Caspian Canal; thence westerly along said mean high water line approximately 300 feet to Corner 4, a point on the east side of the S.W. 1st Court bridge; thence south along said bridge approximately 50 feet to Corner 5, a point in the line of mean high water on the south side of Caspian Canal; thence easterly along said mean high water line approximately 200 feet to Corner 6, a point in the line of mean high water on the west side of Spring Run; thence southerly along said mean high water line approximately 400 feet to the point of beginning, containing 1.70 acres, more or less, to be known as the Magnolia Springs Sanctuary.

(b) *Exception for residents.* Boat access to private residences, boat houses, and boat docks through these sanctuaries by the residents and their authorized guests is permitted. Any such authorized boating activity must be conducted by operating motorboats at idle speed/no wake. Residents' boats will be identified by the placement of a sticker provided by the Fish and Wildlife Service in a conspicuous location on each boat. Use of the waters within the sanctuaries by boats will be only for the purpose of access to residences and the storage of such boats in waters adjacent to residences.



[45 FR 74881, Nov. 12, 1980]

PART 18—MARINE MAMMALS

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Authority: Marine Mammal Protection Act of 1972, as amended (Pub. L. 92-522, 88 Stat. 1027; Pub. L. 97-58, 95 Stat. 979 (16 U.S.C. 1361-1407)).

Source: 39 FR 7262, Feb. 25, 1974, unless otherwise noted.

Subpart A—Introduction

§ 18.1 Purpose of regulations.

The regulations contained in this part implement the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), which among other things, restricts the taking, possession, transportation, selling, offering for sale, and importing of marine mammals.

§ 18.2 Scope of regulations.

(a) This Part 18 applies solely to marine mammals and marine mammal products as defined in § 18.3. For regulations under the Act with respect to cetacea (whales and porpoises), pinnipedia, other than walrus (seals and sea lions), see 50 CFR Part 216.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife. (See also Part 13 of this subchapter.)

§ 18.3 Definitions.

In addition to definitions contained in section 3 of the Act and in Part 10 of this subchapter, and unless the context requires otherwise, in this Part 18:

"Act" means the Marine Mammal Protection Act of 1972, 86 Stat. 1027, 16 U.S.C. 1361-1407; Pub. L. 92-522.

"Alaskan Native" means a person defined in the Alaska Native Claims Settlement Act (43 U.S.C. section 1603(b) (85 Stat. 588)) as a citizen of the United States who is of one-fourth degree or more Alaska Indian (including Tsimshian Indians enrolled or not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any Native, as so defined, either or both of whose adoptive parents are not Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaska Native by the Native village or town of which he claims to be a member and whose father or mother is (or, if deceased, was) regarded as Native by any Native village or Native town. Any citizen enrolled by the Secretary pursuant to section 5 of the Alaska Native Claims Settlement Act shall be conclusively presumed to be an Alaskan Native for purposes of this part.

"Authentic native articles of handicrafts and clothing" means items made by an Indian, Aleut, or Eskimo which (a) were commonly produced on or before December 21, 1972, and (b) are composed wholly or in some significant respect of natural materials, and (c) are significantly altered from their natural form and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or similar mass copying devices. Improved methods of production utilizing modern implements such as sewing machines or modern techniques at a tannery registered pursuant to § 18.23(c) may be used so long as no large scale mass production industry results. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacing, beading, drawing, and painting. The formation of traditional native groups, such as cooperatives, is permitted so long as no large scale mass production results.

"Commercial fishing operation" means the lawful harvesting of fish from the marine environment for profit as part of an on-going business enterprise. Such term shall not include sport fishing activities whether or not carried out by charter boat or otherwise, and whether or not the fish so caught are subsequently sold.

"Endangered species" means a species of marine mammal listed as "endangered" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205 (see Part 17 of this subchapter).

"Incidental catch" means the taking of a marine mammal (a) because it is directly interfering with commercial fishing operations, or (b) as a consequence of the steps used to secure the fish in connection with commercial fishing operations: *Provided, however,* That a marine mammal so taken must immediately be returned to the sea with a minimum of injury; and *Provided, further,* That the taking of a marine mammal which otherwise meets the requirements of this definition shall not be considered as incidental catch of that mammal if it is used subsequently to assist in commercial fishing operations.

"Marine mammal" means any specimen of the following species, whether alive or dead, and any part thereof, including but not limited to, any raw, dressed, or dyed fur or skin:

Scientific name	Common name	Date listed
Ursus maritimus	Polar bear	Dec. 21, 1972.
Enhydra lutris	Sea otter	Do.
Odobenus rosmarus	Walrus	Do.
Dugong dugon	Dugong	Do.
Trichechus manatus	West Indian manatee.	Do.
Trichechus inunguis	Amazonian manatee.	Do.
Trichechus senegalensis.	West African manatee.	Do.
Lutra felina	Marine otter	Mar. 29, 1978.

NOTE: Common names given may be at variance with local usage.

"Native village or town" means any community, association, tribe, band, clan, or group.

"Pregnant" means pregnant near term.

"Subsistence" means the use by Alaskan Natives of marine mammals taken by Alaskan Natives for food, clothing, shelter, heating, transportation, and other uses necessary to maintain the life of the taker or for those who depend upon the taker to provide them with such subsistence.

"Take" means to harass, hunt, capture, collect, or kill, or attempt to harass, hunt, capture, collect, or kill any marine mammal, including, without limitation, any of the following: The collection of dead animals or parts thereof; the restraint or detention of a marine mammal, no matter how temporary; tagging a marine mammal; or the negligent or intentional operation of an aircraft or vessel, or the doing of any other negligent or intentional act which results in the disturbing or molesting of a marine mammal.

"Threatened species" means a species of marine mammal listed as "threatened" pursuant to the Endangered Species Act of 1973, 87 Stat. 884, Pub. L. 93-205.

"Wasteful manner" means any taking or method of taking which is likely to result in the killing or injuring of marine mammals beyond those needed for subsistence purposes or for the making of authentic native articles of handicrafts and clothing or which results in the waste of a substantial portion of the marine mammal and includes without limitation the employment of a method of taking which is not likely to assure the capture or killing of a marine mammal, or which is not immediately followed by a reasonable effort to retrieve the marine mammal.

[39 FR 7262, Feb. 25, 1974, as amended at 43 FR 13066, Mar. 29, 1978]

Subpart B—Prohibitions

§ 18.11 Prohibited taking.

Except as otherwise provided in Subpart C, D, or H, of this Part 18, it is unlawful for:

(a) Any person, vessel, or conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas, or

(b) Any person, vessel, or conveyance to take any marine mammal in waters or on lands under the jurisdiction of the United States.

[39 FR 7262, Feb. 25, 1974, as amended at 43 FR 45372, Oct. 2, 1978]

§ 18.12 Prohibited importation.

(a) Except as otherwise provided in Subparts C and D of this Part 18, it is unlawful for any person to import any marine mammal or marine mammal product into the United States.

(b) Regardless of whether an importation is otherwise authorized pursuant to Subparts C and D of this Part 18, it is unlawful for any person to import into the United States any:

(1) Marine mammal: (i) Taken in violation of the Act, or

(ii) Taken in another country in violation of the laws of that country;

(2) Any marine mammal product if: (i) The importation into the United States of the marine mammal from which such product is made would be unlawful under paragraph (b)(1) of this section, or

(ii) The sale in commerce of such product in the country of origin of the product is illegal.

(c) Except in accordance with an exception referred to in Subpart C and §§ 18.31 and 18.32 of this part, it is unlawful to import into the United States any:

(1) Marine mammal which was pregnant at the time of taking;

(2) Marine mammal which was nursing at the time of taking, or less than 8 months old, whichever occurs later;

(3) Specimen of an endangered or threatened species of marine mammals;

(4) Specimen taken from a depleted species or stock of marine mammals; or

(5) Marine mammal taken in an inhumane manner.

(d) It is unlawful to import into the United States any fish, whether fresh, frozen, or otherwise prepared, if such fish was caught in a manner proscribed by the Secretary of Commerce for persons subject to the jurisdiction of the United States, whether or not any marine mammals were in fact taken incident to the catching of the fish.

§ 18.13 Prohibited uses, possession, transportation, and sales.

Except as otherwise provided in the Act or these regulations, it is unlawful for:

(a) Any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with a prohibited taking or any unlawful importation of any marine mammal or marine mammal products;

(b) Any person subject to the jurisdiction of the United States to possess any marine mammal taken in violation of the Act or these regulations, or to transport, sell, or offer for sale any such marine mammal or any marine mammal product made from any such mammal; or

(c) Any person subject to the jurisdiction of the United States to use in a commercial fishery, any means or method of fishing in contravention of regulations and limitations issued by the Secretary of Commerce for that fishery to achieve the purposes of this Act.

§ 18.14 Marine mammals taken before the Act.

(a) Section 102(e) of the Act provides in effect that the Act shall not apply to any marine mammal taken prior to December 21, 1972, or to any marine mammal product consisting of, or composed in whole or in part of, any marine mammal taken before such date. Such status may be established by submitting to the Director prior to, or at the time of importation, an affidavit containing the following:

(1) The Affiant's name and address;

(2) Identification of the Affiant;

(3) A description of the marine mammals or marine mammal products which the Affiant desires to import;

(4) A statement by the Affiant that to the best of his knowledge and belief, the marine mammals involved in the application were taken prior to December 21, 1972;

(5) A statement by the Affiant in the following language:

> The foregoing is principally based on the attached exhibits which, to the best of my knowledge and belief, are complete, true and correct. I understand that this affidavit is being submitted for the purpose of inducing the Federal Government to permit the importation of ——— under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statements may subject me to the criminal penalties of 18 U.S.C. 1001.

(b) Either one of two exhibits shall be attached to such affidavit, and will contain either:

(1) Records or other available evidence showing that the product consists of or is composed in whole or in part of marine mammals taken prior to December 21, 1972. Such records or other evidentiary material must include information on how, when, where, and by whom the animals were taken, what processing has taken place since taking, and the date and location of such processing; or

(2) A statement from a government agency of the country of origin exercising jurisdiction over marine mammals that any and all such mammals from which the products sought to be imported were derived were taken prior to December 21, 1972.

(c) Bureau agents, or Customs officers, may refuse to clear marine mammals or marine mammal products for importation into the United States, pursuant to § 14.53 of this subchapter, until the importer can demonstrate, by production of the affidavit referred in above or otherwise, that section 102(e) of the Act applies to all affected items.

(d) This section has no application to any marine mammal or marine mammal product intended to be imported pursuant to § 18.21, § 18.31 or § 18.32 of this part.

Subpart C—General Exceptions

§ 18.21 Actions permitted by international treaty, convention, or agreement.

The Act and these regulations shall not apply to the extent that they are inconsistent with the provisions of any international treaty, convention or agreement, or any statute implementing the same, relating to the taking or importation of marine mammals or marine mammal products, which was existent and in force prior to December 21, 1972, and to which the United States was a party. Specifically, the regulations in Subpart B of this part and the provisions of the Act shall not apply to activities carried out pursuant to the Interim Convention on the Conservation of North Pacific Fur Seals signed in Washington on February 9, 1957, and the Fur Seal Act of 1966, 16 U.S.C. 1151-1187, as, in each case, from time to time amended.

§ 18.22 Taking by State or local government officials.

(a) A State or local government official or employee may take a marine mammal in the course of his duties as an official or employee and no permit shall be required, if such taking:

(1) Is accomplished in a humane manner;

(2) Is for the protection or welfare of such mammal or from the protection of the public health or welfare; and

(3) Includes steps designed to insure return of such mammal, if not killed in the course of such taking, to its natural habitat. In addition, any such official or employee may, incidental to such taking, possess and transport, but not sell or offer for sale, such mammal and use any port, harbor or other place under the jurisdiction of the United States. All steps reasonably practicable under the circumstances shall be taken by any such employee or official to prevent injury or death to the marine mammal as the result of such taking.

(b) Each taking permitted under this Section should be included in a written report, to be submitted to the Director every six months, beginning December 31, 1973. Unless otherwise permitted by the Director, the report shall contain a description of:

(1) The animal involved;

(2) The circumstances requiring the taking;

(3) The method of taking;

(4) The name and official position of the State official or employee involved;

(5) The disposition of the animal, including in cases where the animal has been retained in captivity, a description of the place and means of confinement and the measures taken for its maintenance and care; and

(6) Such other information as the Director may require.

The reports shall be mailed to the Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Washington, D.C. 20240.

§ 18.23 Native exceptions.

(a) *Taking.* Notwithstanding the prohibitions of Subpart B of this Part 18, but subject to the restrictions contained in this section, any Indian, Aleut, or Eskimo who resides on the coast of the North Pacific Ocean or the Arctic Ocean may take any marine mammal without a permit, if such taking is:

(1) By Alaskan Natives who reside in Alaska and such taking is for subsistence, or

(2) For purposes of creating and selling authentic native articles of handicraft and clothing, and

(3) In each case, not accomplished in a wasteful manner.

(b) *Restrictions.* (1) "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no marine mammal taken for subsistence may be sold or otherwise transferred to any person other than an Alaskan Native or delivered, carried, transported, or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Alaskan Native directly or through a registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Alaskan Native; or

(ii) It is sold or transferred to a registered agent in Alaska for resale or transfer to an Alaskan Native; or

(iii) It is an edible portion and it is sold in an Alaskan Native village or town.

(2) "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no marine mammal taken for purposes of creating and selling authentic Native articles of handicraft and clothing may be sold or otherwise transferred to any person other than an Indian, Aleut or Eskimo, or delivered, carried, transported or shipped in interstate or foreign commerce, unless:

(i) It is being sent by an Indian, Aleut or Eskimo directly or through a registered agent to a tannery registered under paragraph (c) of this section for the purpose of processing, and will be returned directly or through a registered agent to the Indian, Aleut or Eskimo; or

(ii) It is sold or transferred to a registered agent for resale or transfer to an Indian, Aleut, or Eskimo; or

(iii) It has been first transformed into an authentic Native article of handicraft or clothing; or

(iv) It is an edible portion and it is sold (A) in an Alaskan Native village or town or (B) to an Alaskan Native for his consumption.

(c) The restriction in paragraph (b) shall not apply to parts or products of the Pacific walrus (*Odobenis rosmarus*) to the extent that the waiver of the moratorium and the approved State/Federal regulations relating to the taking and importation of walrus permits the delivery, sale, transportation or shipment of parts or products of the Pacific walrus in interstate or foreign commerce.

(d) Any tannery, or person who wishes to act as an agent, within the jurisdiction of the United States may apply to the Director for registration as a tannery or an agent which may possess and process marine mammal products for Indians, Aleuts, or Eskimos. The application shall include the following information:

(1) The name and address of the applicant;

(2) A description of the applicant's procedures for receiving, storing, processing, and shipping materials;

(3) A proposal for a system of bookkeeping and/or inventory segregation by which the applicant could maintain accurate records of marine mammals received from Indians, Aleuts, or Eskimos, pursuant to this section;

(4) Such other information as the Director may request;

(5) A certification in the following language:

> I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining the benefit of an exception under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statement may subject

me to the criminal penalties of 18 U.S.C. 1001.

(6) The signature of the applicant.

The sufficiency of the application shall be determined by the Director, and in that connection, he may waive any requirement for information, or require any elaboration or further information deemed necessary. The registration of a tannery or other agent shall be subject to the conditions as the Director prescribes, which may include, but are not limited to provisions regarding records, inventory segregation, reports, and inspection. The Director may charge a reasonable fee for such applications, including an appropriate apportionment of overhead and administrative expenses of the Department of Interior.

(e) Notwithstanding the preceding provisions of this section, whenever, under the Act, the Secretary determines any species or stock of marine mammals to be depleted, he may prescribe regulations pursuant to section 103 of the Act upon the taking of such marine mammals by any Indian, Aleut, or Eskimo and, after promulgation of such regulations, all takings of such marine mammals by such person shall conform to such regulations.

[39 FR 7262, Feb. 25, 1974, as amended at 40 FR 59444, Dec. 24, 1975; 45 FR 54057, Aug. 14, 1980]

§ 18.24 Taking incidental to commercial fishing operations.

Persons may take marine mammals incidental to commercial fishing operations until October 21, 1974: *Provided*, That such taking is by means of equipment and techniques prescribed in regulations issued by the Secretary of Commerce. However, any marine mammal taken as an incidental catch may not be retained. It shall be the immediate goal that the incidental kill or incidental serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

§ 18.25 Exempted marine mammals or marine mammal products.

(a) The provisions of the Act and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 18.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which notice is published in the FEDERAL REGISTER of the proposed rulemaking with respect to the designation of the species of stock concerned as depleted or endangered:

(c) Section 18.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

§ 18.26 Collection of certain dead marine mammal parts.

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within ¼ of a mile of the ocean. The term "ocean" includes bays and estuaries.

(b) Marine mammal parts so collected may be retained if registered within 30 days with an agent of the National Marine Fisheries Service, or an agent of the Bureau of Sport Fisheries and Wildlife.

(c) Registration shall include (1) the name of the owner, (2) a description of the article to be registered and (3) the date and location of collection.

(d) Title to any marine mammal parts collected under this section is not transferable, unless consented to in writing by the agent referred to in paragraph (b) of this section.

§ 18.27 Regulations governing small takes of marine mammals incidental to specified activities.

(a) *Purpose of regulations.* The regulations in this section implement Section 101(a)(5) of the Marine Mammal Protection Act of 1972, as amended, 16

U.S.C. 1371(a)(5), Pub. L. 97-58, which provides a mechanism for allowing, upon request, during periods of not more than five consecutive years each, the incidental, but not intentional, taking of small numbers of non-depleted marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region.

(b) *Scope of regulations.* The taking of small numbers of marine mammals under Section 101(a)(5) of the Marine Mammal Protection Act may be allowed only if the species involved are not depleted and if the Fish and Wildlife Service:

(1) Finds that the total taking during the specified time period will have a negligible impact on the species and their habitat, and on the availability of the species for subsistence uses;

(2) prescribes regulations setting forth permissible methods of taking and other means of effecting the least practicable adverse impact on the species and their habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance; and

(3) prescribes regulations pertaining to the monitoring and reporting of such taking.

NOTE: The information collections contained in this § 18.27 are not subject to Office of Management and Budget approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) since there will be less than ten respondents annually.

(c) *Definitions.* In addition to definitions contained in the Act and in 50 CFR 18.3 and unless the context otherwise requires, in this section.

"Citizens of the United States" and "U.S. citizens" means individual U.S. citizens or any partnership, corporation, association, or similar entity if it is organized under the laws of the United States or any governmental unit defined in 16 U.S.C. 1362(13) and controlled by individuals who are U.S. citizens. U.S. Federal, State and local government agencies shall also constitute citizens of the United States for purposes of this section.

"Incidental, but not intentional, taking" means takings which are infrequent, unavoidable, or accidental. It does not mean that the taking must be unexpected. (Complete definition of take is contained in 50 CFR 18.3.)

"Negligible impact" means a biological impact which can be disregarded or which is so small or unimportant, as to warrant little or no attention. A finding of negligible impact cannot be made if a species or stock is depleted under 16 U.S.C. 1362(1).

"Small numbers" means a portion of a marine mammal species or stock whose taking would have a negligible impact on that species or stock.

"Specified activity" means any activity, other than commercial fishing, which takes place in a specified geographical region and potentially involves the taking of small numbers of non-depleted marine mammals. The specified activity and specified geographical region should be identified so that the anticipated effects on non-depleted marine mammals will be substantially similar.

"Specified geographical region" means an area within which a specified activity is conducted and which has similar biogeographic characteristics.

(d) *Submission of requests.* (1) In order for the Fish and Wildlife Service to consider allowing the taking by U.S citizens of small numbers of non-depleted marine mammals incidental to a specified activity, a written request must be submitted to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Requests shall include the following information on the activity in general and estimated cumulative impacts of the total potential taking (by all persons conducting the activity):

(i) A description of the specific activity or class of activities that can be expected to result in incidental taking of non-depleted marine mammals;

(ii) The dates and duration of such activity and the specific geographical region where it will occur;

(iii) Based upon the best available scientific information;

(A) An estimate of the species and numbers of marine mammals likely to be taken by age, sex, and reproductive conditions, and the type of taking (*e.g.*, disturbance by sound, injury or death resulting from collision, etc.)

and the number of times such taking is likely to occur;

(B) A description of the status, distribution, and seasonal distribution (when applicable) of the affected species or stocks likely to be affected by such activities;

(C) The anticipated impact of the activity upon the species or stocks;

(D) The anticipated impact of the activity on the availability of the species or stocks for subsistence uses;

(iv) The anticipated impact of the activity upon the habitat of the marine mammal populations and the likelihood of restoration of the affected habitat;

(v) The anticipated impact of the loss or modification of the habitat on the marine mammal population involved;

(vi) The availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat, and, where relevant, on their availability for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance;

(vii) Suggested means of accomplishing the necessary monitoring and reporting which will result in increased knowledge of the species through an analysis of the level of taking or impacts and suggested means of minimizing burdens by coordinating such reporting requirements with other schemes already applicable to persons conducting such activity; and

(viii) Suggested means of learning of, encouraging, and coordinating research opportunities, plans and activities relating to reducing such incidental taking from such specified activities, and evaluating its effects.

(2) The Director shall determine the adequacy and completeness of a request, and if found to be adequate, will invite information, suggestions, and comments on the preliminary finding of negligible impact and on the proposed specific regulations through notice in the FEDERAL REGISTER, newspapers of general circulation, and appropriate electronic media in the coastal areas that may be affected by such activity. All information and suggestions will be considered by the Fish and Wildlife Service in developing final findings and effective specific regulations.

(3) The Director shall evaluate each request to determine, based on the best available scientific evidence, whether the total taking constitutes a negligible impact on the species or stocks of marine mammals, their habitat, and where relevant, on the availability of the species for subsistence uses. Any preliminary finding of negligible impact shall be proposed for public comment before final specific regulations are promulgated.

(e) *Specific regulations.* (1) Generic regulations will be established for each allowed specifed activity which set forth permissible methods of taking and requirements for monitoring and reporting.

(2) Regulations will be established based on the best available scientific information. As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or part, after notice and opportunity for public review.

(f) *Letters of Authorization.* (1) A Letter of Authorization, which may be issued only to U.S. citizens, is required to conduct activities pursuant to any specific regulations established. Requests for Letters of Authorization shall be submitted to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. The information to be submitted in a request may be obtained by writing the Director. Once specific regulations are effective, the Service will to the maximum extent possible, process subsequent applications for Letters of Authorization within 30 days after receipt of the application by the Service.

(2) Issuance of a Letter of Authorization will be based on a determination that the level of taking will be consistent with the finding that the cumulative total of such taking will have a negligible impact on the marine mammal species or stocks and their habitat, and, where relevant, on the availability of the species for subsistence uses.

(3) Notice of issuance of all Letters of Authorization will be published in the FEDERAL REGISTER within 30 days of issuance.

(4) Letters of Authorization will specify the period of validity and any additional terms and conditions appropriate for the specific request.

(5) Letters of Authorization shall be withdrawn or suspended, either on an individual or class basis, as appropriate, if, after notice and opportunity for public comment, the Director determines: (i) The regulations prescribed are not being substantially complied with, or (ii) the taking allowed is having, or may have, more than a negligible impact on the species or stocks concerned, their habitat, or, where relevant, on their availability for subsistence uses.

(6) The requirement for notice and opportunity for public review in paragraph (f)(5) of this section shall not apply if the Director determines that an emergency exists which poses a significant risk to the well-being of the species or stocks of marine mammals concerned.

(7) A violation of any of the terms and conditions of a Letter of Authorization or of the specific regulations may subject the Holder and/or any individual who is operating under the authority of the Holder's Letter of Authorization to penalties provided in the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407).

[48 FR 31225, July 7, 1983]

Subpart D—Special Exceptions

§ 18.31 Scientific research permits and public display permits.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking and importation of marine mammals for scientific research purposes or for public display.

(a) *Application procedure.* Applications for permits to take and import marine mammals for scientific research purposes or for public display shall be submitted to the Director. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A statement of the purpose, date, location and manner of the taking or importation;

(2) A description of the marine mammal or the marine mammal products to be taken or imported, including the species or subspecies involved; the population stock, when known, the number of specimens or products (or the weight thereof, where appropriate); and the anticipated age, size, sex, and condition (i.e., whether pregnant or nursing) of the animals involved;

(3) If the marine mammal is to be taken and transported alive, a complete description of the manner of transportation, care and maintenance, including the type, size, and construction of the container or artificial environment; arrangements for feeding and sanitation; a statement of the applicant's qualifications and previous experience in caring for and handling captive marine mammals and a like statement as to the qualifications of any common carrier or agent to be employed to transport the animal; and a written certification of a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animals and that in his opinion they are adequate to provide for the well-being of the animal;

(4) If the application is for a scientific research permit, a detailed description of the scientific research project or program in which the marine mammal or marine mammal product is to be used including a copy of the research proposal relating to such program or project and the names and addresses of the sponsor or cooperating institution and the scientists involved;

(5) If the application is for a scientific research permit, and if the marine mammal proposed to be taken or imported is listed as an endangered or threatened species or has been designated by the Secretary as depleted, a detailed justification of the need for such a marine mammal, including a discussion of possible alternatives, whether or not under the control of the applicant; and

(6) If the application is for a public display permit, a detailed description of the proposed use to which the marine mammal or marine mammal product is to be put, including the manner, location, and times of display, whether such display is for profit, an estimate of the numbers and types of persons who it is anticipated will benefit for such display, and whether and to what extent the display is connected with educational or scientific programs. There shall also be included a complete description of the enterprise seeking the display permit and its educational, and scientific qualifications, if any.

(b) *Review by Marine Mammal Commission.* Upon receipt of an application the Director shall forward the application to the Marine Mammal Commission together with a request for the recommendations of the Commission and the Committee of Scientific Advisors on Marine Mammals. In order to comply with the time limits provided in these regulations, the Director shall request that such recommendation be submitted within 30 days of receipt of the application by the Commission. If the Commission or the Committee, as the case may be, does not respond within 30 days from the receipt of such application by the Commission, the Director shall advise the Commission in writing that failure to respond within 45 days from original receipt of the application (or such longer time as the Director may establish) shall be considered as a recommendation from the Commission and the Committee that the permit be issued. The Director may also consult with any other person, institution or agency concerning the application.

(c) *Issuance criteria.* Permits applied for under this section shall be issued, suspended, modified and revoked pursuant to regulations contained in § 18.33. In determining whether to issue a scientific research permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; and whether the granting of the permit is required to further a bona fide and necessary or desirable scientific purpose, taking into account the benefits anticipated to be derived from the scientific research contemplated and the effect of the purposed taking or importation on the population stock and the marine ecosystem. In determining whether to issue a public display permit, the Director shall consider whether the proposed taking or importation will be consistent with the policies and purposes of the Act; whether a substantial public benefit will be gained from the display contemplated, taking into account the manner of the display and the anticipated audience on the one hand, and the effect of the proposed taking or importation on the population stocks of the marine mammal in question and the marine ecosystem on the other; and the applicant's qualifications for the proper care and maintenance of the marine mammal or the marine mammal product, and the adequacy of his facilities.

(d) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits issued under this section shall be subject to the following conditions:

(1) Any permit issued under these regulations must be in the possession of the person to whom it is issued (or an agent of such person) during:

(i) The time of the authorized taking or importation;

(ii) The period of any transit of such person or agent which is incidental to such taking or importation; and

(iii) Any other time while any marine mammal taken or imported under such permit is in the possession of such person or agent.

(2) A duplicate copy of the issued permit must be physically attached to the container, package, enclosure, or other means of containment, in which the marine mammal is placed for purposes of storage, transit, supervision, or care.

(e) *Tenure of permits.* The tenure of permits for scientific research or public display shall be designated on the face of the permit.

§ 18.32 Waiver of the moratorium.

See Subpart F (Waiver of the moratorium; State laws and regulations) and Subpart G (Notice and Hearing on Section 103 Regulations) for procedures regarding waivers of the moratorium in those circumstances where a state provides an acceptable management program for a species or population stock within its jurisdiction.

[40 FR 59442, Dec. 24, 1975]

§ 18.33 Procedures for issuance of permits and modification, suspension or revocation thereof.

(a) Whenever application for a permit is received by the director which the director deems sufficient, he shall, as soon as practicable, publish a notice thereof in the FEDERAL REGISTER. Such notice shall set forth a summary of the information contained in such application. Any interested party may, within 30 days after the date of publication of such notice, submit to the director his written data or views with respect to the taking or importation proposed in such application and may request a hearing in connection with the action to be taken thereon.

(b) If the request for a hearing is made within the 30-day period referred to in paragraph (a) of this section, or if the director determines that a hearing would otherwise be advisable, the director may, within 60 days after the date of publication of the notice referred to in paragraph (a) of this section, afford to such requesting party or parties an opportunity for a hearing. Such hearing shall also be open to participation by any interested members of the public. Notice of the date, time, and place of such hearing shall be published in the FEDERAL REGISTER not less than 15 days in advance of such hearing. Any interested person may appear in person or through representatives at the hearing and may submit any relevant material, data, views, comments, arguments, or exhibits. A summary record of the hearing shall be kept.

(c) As soon as practicable but not later than 30 days after the close of the hearing (or if no hearing is held, as soon as practicable after the end of the 30 days succeeding publication of the notice referred to in paragraph (a) of this section the director shall issue or deny issuance of the permit. Notice of the decision of the director shall be published in the FEDERAL REGISTER within 10 days after the date of such issuance or denial. Such notice shall include the date of the issuance or denial and indicate where copies of the permit, if issued, may be obtained.

(d) Any permit shall be subject to modification, suspension, or revocation by the director in whole or in part in accordance with these regulations and the terms of such permits. The permittee shall be given written notice by registered mail, return receipt requested, of any proposed modification, suspension, or revocation. Such notice shall specify:

(1) The action proposed to be taken along with a summary of the reasons therefor;

(2) In accordance with 5 U.S.C. 558, the steps which the permittee may take to demonstrate or achieve compliance with all lawful requirements; and

(3) That the permittee is entitled to a hearing thereon if a written request for such a hearing is received by the Director within 10 days after receipt of the aforesaid notice or such other later date as may be specified in the notice to the permittee. The time and place of the hearing, if requested by the permittee, shall be determined by the director and a written notice thereof given to the permittee by registered mail, return receipt requested, not less than 15 days prior to the date of hearing specified. The director may, in his discretion, allow participation at the hearing by interested members of the public. The permittee and other parties participating may submit all relevant material, data, views, comments, arguments, and exhibits at the hearing. A summary record shall be kept of any such hearing.

(e) The Director shall make a decision regarding the proposed modification, suspension, or revocation, as soon as practicable after the close of the hearing, or if no hearing is held, as soon as practicable after the close of the 10 day period during which a hearing could have been requested. Notice of the modification, suspension, or revocation shall be published in the FEDERAL REGISTER within 10 days from the date of the Director's decision. In no event shall the proposed action take effect until notice of the Director's decision is published in the FEDERAL REGISTER.

Subpart E—Depleted Species of Stocks—[Reserved]

Subpart F—Transfer of Management Authority to States

NOTE: Regulations governing the transfer of management authority to states pursuant to Section 109 of the Marine Mammal Protection Act for marine mammal species under the jurisdiction of the Secretary of the Interior are found at Part 403 of this title.

[48 FR 22456, May 18, 1983]

Subpart G—Notice and Hearing on Section 103 Regulations

SOURCE: 41 FR 5396, Feb. 6, 1976, unless otherwise noted.

§ 18.70 Basis and purpose.

(a) Sections 101(a)(2), 101(a)(3)(A), and 101(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2), 1371(a)(3)(A), and 1371(b)) and these regulations authorize the Director, U.S. Fish and Wildlife Service, to: (1) Impose regulations governing the taking of marine mammals incidental to commercial fishing operations; (2) waive the moratorium and adopt regulations with respect to the taking and importing of animals from each species of marine mammals under his jurisdiction; and (3) prescribe regulations governing the taking of depleted marine mammals by any Indian, Aleut or Eskimo, respectively. In prescribing regulations to carry out the provisions of said sections, the act refers the Director to section 103 (16 U.S.C. 1373). In accordance with section 103(d), regulations must be made on the record after opportunity for an agency hearing on such regulations and, in the case of a waiver, on the determination by the Director to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A)).

§ 18.71 Definitions.

Definitions shall be the same as in Subpart A of this part except as follows:

(a) "Party" means for the purposes of this subpart:

(1) The Director or his representative; or

(2) A person who has notified the Director by specified dates of his or her intent to participate in the hearing pursuant to §§ 18.75 and 18.84(b).

(b) "Presiding officer" means, for the purposes of this subpart, an administrative law judge of the Office of Hearings and Appeals appointed in accordance with 5 U.S.C. 3105.

(c) "Witness" means, for the purposes of this subpart, any person who provides direct testimony on the proposed regulations and waiver. A person may be both a party and a witness.

§ 18.72 Scope of regulations.

The procedural regulations in this subpart govern the practice and procedure in hearings held under section 103(d) of the Act. These hearings will be governed by the provisions of sections 556 and 557 of the Administrative Procedure Act (5 U.S.C. 556 and 557). The regulations shall be construed to secure the just, speedy, and inexpensive determination of all issues raised with respect to any waiver and/or regulation proposed pursuant to section 103(d) of the act in a manner which gives full protection to the rights of all persons affected thereby.

§ 18.73 Burden of proof.

The proponents of the proposed regulations and waiver must demonstrate that any taking or importation of any marine mammal under such proposed regulations and waiver would be consistent with the act.

§ 18.74 Notice of hearing.

(a) A notice of hearing on any proposed regulations shall be published in the FEDERAL REGISTER, together with the Director's proposed determination to waive the moratorium pursuant to section 101(a)(3)(A) (16 U.S.C. 1371(a)(3)(A)), where applicable.

(b) The notice shall state:

(1) The nature of the hearing;

(2) The place and date of the hearing. The date shall not be less than 60 days after publication of notice of the hearing;

(3) The legal authority under which the hearing is to be held;

(4) The proposed regulations and waiver, where applicable, and a summary of the statements required by section 103(d) of the Act (16 U.S.C. 1373(d));

(5) Issues of fact which may be involved in the hearing;

(6) If an Environmental Impact Statement is required, the date of publication of the Statement and the times and place(s) where the Statement and comments thereon may be viewed and copied;

(7) Any written advice received from the Marine Mammal Commission;

(8) The times and place(s) where records and submitted direct testimony will be kept for public inspection, along with appropriate references to any other documents;

(9) The final date for filing with the Director a notice of intent to participate in the hearing pursuant to § 18.75;

(10) The final date for submission of direct testimony on the proposed regulations and waiver, if applicable, and the number of copies required;

(11) The docket number assigned to the case which shall be used in all subsequent proceedings; and

(12) The place and date of the prehearing conference.

§ 18.75 Notification by interested persons.

Any person desiring to participate as a party shall notify the Director, by certified mail, on or before the date specified in the notice of hearing.

§ 18.76 Presiding officer.

(a) Upon publication of the notice of hearing pursuant to § 18.74, the Office of Hearings and Appeals shall appoint a presiding officer pursuant to 5 U.S.C. 3105. No individual who has any conflict of interest, financial or otherwise, shall serve as presiding officer in such proceeding.

(b) The presiding officer, in any proceeding under this subpart, shall have power to:

(1) Change the time and place of the hearing and adjourn the hearing;

(2) Evaluate direct testimony submitted pursuant to these regulations, make a preliminary determination of the issues, conduct a prehearing conference to determine the issues for the hearing agenda, and cause to be published in the Federal Register a final hearing agenda;

(3) Rule upon motions, requests and admissibility of direct testimony;

(4) Administer oaths and affirmations, question witnesses and direct witnesses to testify;

(5) Modify or waive any rule (after notice) when determining no party will be prejudiced;

(6) Receive written comments and hear oral arguments;

(7) Render a recommended decision; and

(8) Do all acts and take all measures, including regulation of media coverage, for the maintenance of order at and the efficient conduct of the proceeding.

(c) In case of the absence of the original presiding officer or his inability to act, the powers and duties to be performed by the original presiding officer under this part in connection with a proceeding may, without abatement of the proceeding, be assigned to any other presiding officer by the Office of Hearings and Appeals unless otherwise ordered by the Director.

(d) The presiding officer shall withdraw from the proceeding upon his own motion or upon the filing of a motion by a party under § 18.76(e) if he deems himself disqualified under recognized canons of judicial ethics.

(e) A presiding officer may be requested to withdraw at any time prior to the recommended decision. If there is filed by a party in good faith a timely and sufficient affidavit alleging the presiding officer's personal bias, malice, conflict, of interest or other basis which might result in prejudice to a party, the hearing shall recess. The Director of the Office of Hearings and Appeals shall immediately determine the matter as a part of the record and decision in the proceeding, after making such investigation or holding such hearings, or both, as he may deem appropriate in the circumstances.

§ 18.77 Direct testimony submitted as written documents.

(a) Unless otherwise specified, all direct testimony, including accompanying exhibits, must be submitted to the presiding officer in writing no later than the dates specified in the notice of the hearing (§ 18.74), the prehearing order (§ 18.82), or within 15 days after the conclusion of the prehearing conference (§ 18.84) as the case may be. All direct testimony, referred to in the affidavit and made a part thereof, must be attached to the affidavit. Direct testimony submitted with exhibits must state the issue to which the exhibit relates; if no such statement is made, the presiding officer shall determine the relevance of the exhibit to the issues published in the FEDERAL REGISTER.

(b) The direct testimony submitted shall contain:

(1) A concise statement of the witness' interest in the proceeding and his position regarding the issues presented. If the direct testimony is presented by a witness who is not a party, the witness shall state his relationship to the party; and

(2) Facts that are relevant and material.

(c) The direct testimony may propose issues of fact not defined in the notice of the hearing and the reason(s) why such issues should be considered at the hearing.

(d) Ten copies of all direct testimony must be submitted unless the notice of the hearing otherwise specifies.

(e) Upon receipt, direct testimony shall be assigned a number and stamped with that number and the docket number.

(f) Contemporaneous with the publication of the notice of hearing, the Director's direct testimony in support of the proposed regulations and waiver, where applicable, shall be available for public inspection as specified in the notice of hearing. The Director may submit additional direct testimony during the time periods allowed for submission of such testimony by witnesses.

§ 18.78 Mailing address.

Unless otherwise specified in the notice of hearing, all direct testimony shall be addressed to the Presiding Officer, c/o Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240. All affidavits and exhibits shall be clearly marked with the docket number of the proceedings.

§ 18.79 Inspection and copying of documents.

Any document in a file pertaining to any hearing authorized by this subpart or any document forming part of the record of such a hearing may be inspected and/or copied in the Office of the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20240, unless the file is in the care and custody of the presiding officer, in which case he shall notify the parties as to where and when the record may be inspected.

§ 18.80 Ex parte communications.

(a) After notice of a hearing is published in the FEDERAL REGISTER, all communications, whether oral or written, involving any substantive or procedural issue and directed either to the presiding officer or to the Director, Deputy Director or Marine Mammal Coordinator, U.S. Fish and Wildlife Service, without reference to these rules of procedure, shall be deemed ex parte communications and are not to be considered part of the record for decision.

(b) A record of oral conversations shall be made by the above persons who are contacted. All communications shall be available for public viewing at times and place(s) specified in the notice of hearing.

(c) The presiding officer shall not communicate with any party on any fact in issue or on the merits of the matter unless notice and opportunity is given for all parties to participate.

§ 18.81 Prehearing conference.

(a) After an examination of all the direct testimony submitted pursuant to § 18.77, the presiding officer shall make a preliminary determination of issues of fact which may be addressed at the hearing.

(b) The presiding officer's preliminary determination shall be made available at the place or places provided in the notice of the hearing (§ 18.74(b)(8)) at least five days before the prehearing conference is held.

(c) The purpose of the prehearing conference shall be to enable the presiding officer to determine, on the basis of the direct testimony submitted and prehearing discussions:

(1) Whether the presiding officer's preliminary determination of issues of fact for the hearing has omitted any significant issues;

(2) What facts are not in dispute;

(3) Which witnesses may appear at the hearing; and

(4) The nature of the interest of each party and which parties' interests are adverse.

(d) Only parties may participate in the prehearing conference, and a party may appear in person or be represented by counsel.

§ 18.82 Prehearing order.

(a) After the prehearing conference, the presiding officer shall prepare a prehearing order which shall be published in the Federal Register within ten days after the conclusion of the conference. A copy of the prehearing order shall be mailed to all Parties.

(b) The prehearing order shall list: (1) All the issues which the hearing shall address, the order in which those issues shall be presented, and the direct testimony submitted which bears on the issues; and (2) a final date for submission of direct testimony on issues of fact not included in the notice of hearing if such issues are presented. The prehearing order may also specify a final date for submission of direct testimony to rebut testimony previously submitted during the time specified in the notice of the hearing.

(c) The presiding officer shall publish with the prehearing order a list of witnesses who may appear at the hearing, a list of parties, the nature of the interest of each party, and which parties interests are adverse on the issues presented.

(d) All parties shall be bound by the prehearing order.

§ 18.83 Determination to cancel the hearing.

(a) If the presiding officer determines that no issues of material fact are presented by the direct testimony submitted prior to the date of the hearing, he may publish in the Federal Register such determination and that on issues of material fact a hearing shall not be held. The presiding officer may provide an opportunity for argument on any issues of law presented by the direct testimony.

(b) Promptly after oral argument, if any, the presiding officer shall make a recommended decision based on the record, which in this case shall consist of the direct testimony and any oral argument presented. He shall transmit to the Director his recommended decision, the record and a certificate stating that the record contains all the written direct testimony. The Director shall then make a final decision in accordance with these regulations (§ 18.91).

§ 18.84 Rebuttal testimony and new issues of fact in prehearing order.

(a) Direct testimony to rebut testimony offered during the time period specified in the notice of hearing may be submitted pursuant to these regulations within fifteen days after the conclusion of the prehearing conference unless the presiding officer otherwise specifies in the prehearing order.

(b) If the prehearing order presents issues not included in the notice of the hearing published pursuant to § 18.74:

(1) Any person interested in participating at the hearing on such issues presented shall notify the Director by certified mail of an intent to participate not later than ten days after publication of the prehearing order. Such person may present direct testimony or cross-examine witnesses only on such issues presented unless he previously notified the Director pursuant to § 18.75; and

(2) Additional written direct testimony concerning such issues may be submitted within the time provided in the prehearing order. Such direct testimony will comply with the requirements of § 18.77.

§ 18.85 Waiver of right to participate.

Any person who fails to notify the Director of his intent to participate pursuant to § 18.75 or § 18.84 shall be deemed to have waived his right to participate as a party.

§ 18.86 Conduct of the hearing.

(a) The hearing shall be held at the time and place fixed in the notice of hearing, unless the presiding officer changes the time or place. If a change occurs, the presiding officer shall publish the change in the FEDERAL REGISTER and shall expeditiously notify all parties by telephone or by mail. If the change in time or place of hearing is made less than five days before the date previously fixed for the hearing, the presiding officer shall also announce, or cause to be announced, the change at the time and place previously fixed for the hearing.

(b) The presiding officer shall, at the commencement of the hearing, introduce into the record the notice of hearing as published in the FEDERAL REGISTER, all subsequent notices published in the FEDERAL REGISTER, the Environmental Impact Statement if it is required and the comments thereon and agency responses to the comments, and a list of all parties. Direct testimony shall then be received with respect to the matters specified in the prehearing order in such order as the presiding officer shall announce. With respect to direct testimony submitted as rebuttal testimony or in response to new issues presented by the prehearing conference, the presiding officer shall determine the relevancy of such testimony.

(c) The hearing shall be publicly conducted and reported verbatim by an official reporter.

(d) If a party objects to the admission or rejection of any direct testimony or to any other ruling of the presiding officer during the hearing, he shall state briefly the grounds of such objection, whereupon an automatic exception will follow if the objection is overruled by the presiding officer. The transcript shall not include argument or debate thereon except as ordered by the presiding officer. The ruling of the presiding officer on any objection shall be a part of the transcript and shall be subject to review at the same time and in the same manner as the Director's final decision. Only objections made before the presiding officer may subsequently be relied upon in the proceedings.

(e) All motions and requests shall be addressed to, and ruled on by, the presiding officer if made prior to his certification of the transcript, or by the Director if made thereafter.

§ 18.87 Direct testimony.

(a) Only direct testimony submitted as provided in these regulations and introduced at the hearing by a witness shall be considered part of the record. Such direct testimony, when written, shall not be read into evidence but shall become a part of the record subject to exclusion of irrelevant and immaterial parts thereof.

(b) The witness introducing direct testimony shall:

(1) State his name, address and occupation;

(2) State qualifications for introducing the direct testimony. If an expert, the witness shall briefly state the scientific or technical training which qualifies him as an expert;

(3) Identify the direct testimony previously submitted in accordance with these regulations; and

(4) Submit to appropriate cross- and direct-examination. Cross-examination shall be by a party whose interests are adverse on the issue presented to the witness if the witness is a party, or to the interests of the party who presented the witness.

(c) A party shall be deemed to have waived the right to introduce direct-testimony if such party fails to present a witness to introduce the direct-testimony.

(d) Official notice may be taken of such matters as are judicially noticed by the courts of the United States. Parties shall be given adequate notice, by the presiding officer, at the hearing, of matters so noticed and shall be given adequate opportunity to show that such facts are inaccurate or are erroneously noticed.

§ 18.88 Cross-examination.

(a) The presiding officer may:

(1) Require the cross-examiner to outline the intended scope of the examination; and

(2) Exclude cross-examination questions that are immaterial, irrelevant or unduly repetitious.

(b) Any party shall be given an opportunity to appear, either in person or through an authorized counsel or representative, to cross-examine witnesses. Before cross-examining a witness, the party or counsel shall state his name, address and occupation. If counsel cross-examines the witness, counsel shall state for the record the authority to act as counsel. Cross-examiners shall be assumed to be familiar with the direct testimony.

(c) Any party or party's counsel who fails to appear at the hearing to cross-examine an "adverse" witness shall be deemed to have waived the right to cross-examine that witness.

(d) Scientific, technical or commercial publications may only be utilized for the limited purposes of impeaching witnesses under cross-examination unless previously submitted and introduced in accordance with these regulations.

§ 18.89 Oral and written arguments.

(a) The presiding officer may, in his discretion, provide for oral argument by parties at the end of the hearing. Such argument, when permitted, may be limited by the presiding officer to the extent necessary for the expeditious disposition of the proceeding.

(b) The presiding officer shall announce at the hearing a reasonable period of time within which any party may file with the presiding officer proposed findings and conclusions and written arguments or briefs, which are based upon the record and citing where practicable the relevant page or pages of the transcript. If a party filing a brief desires the presiding officer to reconsider any objection made by such party to a ruling of the presiding officer, he shall specifically identify such rulings by reference to the pertinent pages of the transcript and shall state his arguments thereon as a part of the brief.

(c) Oral or written arguments shall be limited to issues arising from direct testimony on the record.

§ 18.90 Recommended decision, certification of the transcript and submission of comments on the recommended decision.

(a) Promptly after expiration of the period for receiving written briefs, the presiding officer shall make a recommended decision based on the record and transmit the decision to the Director. The recommended decision shall include:

(1) A statement containing a description of the history of the proceedings;

(2) Findings on the issues of fact with the reasons therefor; and

(3) Rulings on issues of law.

(b) The presiding officer shall also transmit to the Director the transcript of the hearing, the original and all copies of the direct testimony, and written comments. The presiding officer shall attach to the original transcript of the hearing a certificate stating that to the best of his knowledge and belief the transcript is a true transcript of the testimony given at the hearing except in such particulars as are specified.

(c) Upon receipt of the recommended decision, the Director shall send a copy thereof to each party by certified mail and shall publish in the FEDERAL REGISTER a notice of the receipt of the recommended decision by the Director. The notice shall include:

(1) A summary of the recommended decision;

(2) A statement that any interested person may file written comments on the recommended decision with the Director by a specified date;

(3) The time(s) and place(s) where the record of the hearing transmitted to the Director pursuant to paragraph (b) of this section may be inspected by interested persons; and

(4) The time(s) and place(s) where the recommended decision may be inspected and/or copied by interested persons.

(d) Within thirty days after the notice of receipt of the recommended decision has been published in the FEDERAL REGISTER, any interested person may file with the Director any written comments on the recommended decision. All comments, including recommendations from or consultation with the Marine Mammal Commission, must be submitted during the thirty-day period to the Director at the above address.

§ 18.91 Director's decision.

(a) Upon receipt of the recommended decision and transcript and after the thirty-day period for receiving written comments on the recommended decision has passed, the Director shall make a final decision on the proposed regulations and waiver, where applicable. The Director's decision may affirm, modify, or set aside, in whole or in part, the recommended findings, conclusions and decision of the presiding officer. The Director may also remand the hearing record to the presiding officer for a fuller development of the record.

(b) The Director's decision shall include:

(1) A statement containing a description of the history of the proceeding;

(2) Findings on the issues of fact with the reasons therefor;

(3) Rulings on issues of law; and

(4) Any other relevant information which the Director deems appropriate.

(c) The Director's decision shall be published in the FEDERAL REGISTER. If the waiver is approved, the final adopted regulations shall be promulgated with the decision, or as soon thereafter as practicable.

Subpart H—Waiver of Moratorium on Taking and Importation of Individual Marine Mammal Species

SOURCE: 41 FR 14373, Apr. 5, 1976, unless otherwise noted.

§ 18.92 Purpose of regulations.

The regulations contained in this subpart fulfill the requirements of section 103 of the Act for regulations to govern the taking and importation of each species of marine mammal for which the moratorium imposed by section 101 has been waived.

§ 18.93 Scope of regulations.

(a) The provisions in this subpart apply only after (1) the Director has made a decision to waive a moratorium pursuant to section 101(a)(3)(A) of the Act, (2) the opportunity for a hearing required by section 103(d) of the Act has been provided, and (3) the Director has made a determination, in the case of State laws and regulations, to approve such State laws and regulations pursuant to section 109(a)(2) of the Act and Subpart F of this part.

(b) The provisions of this subpart, unless specifically stated, apply to all taking and/or importation of each species of marine mammal for which the moratorium has been waived other than takings for scientific research or public display, which are governed by § 18.31 of this part, or takings incidental to commercial fishing operations which are governed by § 18.24.

§ 18.94 Pacific walrus (Alaska).

(a) Pursuant to sections 101(a)(3)(A) 103, and 109 of the Marine Mammal Protection Act of 1972, the moratorium on the hunting and killing of Pacific walrus (*Odobenus rosmarus*) in waters or on lands subject to the jurisdiction of the State of Alaska, the United States, or on the high seas by any person, vessel, or conveyance subject to the jurisdiction of the State of Alaska or the United States, is waived, provided that beginning August 2, 1979 this waiver shall not be effective, and no taking or importation under the waiver shall be allowed, until this section is amended to establish regulations to effectively control taking and otherwise implement the waiver.

[41 FR 14373, Apr. 5, 1976, as amended at 44 FR 45566, Aug. 2, 1979]

PART 19—AIRBORNE HUNTING

Subpart A—Introduction

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19.2 Scope of regulations.
19.3 Relation to other laws.
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Subpart B—Prohibitions

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AUTHORITY: Fish and Wildlife Act of 1956, 85 Stat. 480, as amended, 86 Stat. 905 (16 U.S.C. 742a—j-1).

SOURCE: 39 FR 1177, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 19.1 Purpose of regulations.

The regulations contained in this part provide rules relative to the prohibition against shooting or harassing of wildlife from any aircraft, provide the requirements for the contents and filing of annual reports by the States regarding permits issued for such shooting or harassing, and provide regulations necessary for effective enforcement of the Fish and Wildlife Act of 1956 as amended (16 U.S.C. 742a—j-1).

§ 19.2 Scope of regulations.

The regulations contained in this part apply to all persons within the territorial jurisdiction of the United States, to all United States citizens whether within the territorial jurisdiction of the United States or on the high seas or on board aircraft in flight over the high seas, and to all persons on board aircraft belonging in whole or in part to any United States citizen, firm, or partnership, or corporation created by or under the laws of the United States, or any State, territory or possession thereof.

§ 19.3 Relation to other laws.

The exemptions to general prohibitions of the Fish and Wildlife Act of 1956, that permit airborne hunting in certain circumstances (See Subpart B of this part) do not supersede, or authorize the violation of, other laws designed for the conservation or protection of wildlife, including those laws prohibiting the shooting or harassing of bald and golden eagles, polar bears and other marine mammals, migratory birds, and other wildlife, *except* to the extent that airborne hunting is authorized by regulations or permits issued under authority of those laws. (See e.g., § 21.41 of this subchapter.)

§ 19.4 Definitions.

In addition to definitions contained in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 19:

"Harass" means to disturb, worry, molest, rally, concentrate, harry, chase, drive, herd or torment.

Subpart B—Prohibitions

§ 19.11 General prohibition.

(a) Except as otherwise authorized by the Fish and Wildlife Act of 1956 as amended, no person shall:

(1) While airborne in any aircraft shoot or attempt to shoot for the purpose of capturing or killing any wildlife;

(2) Use an aircraft to harass any wildlife; or

(3) Knowingly participate in using an aircraft whether in the aircraft or on the ground for any purpose referred to in paragraph (a) (1) or (2) of this section.

(b) The acts prohibited in this section include, but are not limited to, any person who:

(1) Pilots or assists in the operation of an aircraft from which another person shoots or shoots at wildlife while airborne, or

(2) While on the ground takes or attempts to take any wildlife by means, aid, or use of an aircraft.

§ 19.12 Exceptions to general prohibitions.

The prohibitions of the preceding section shall not apply to any person who:

(1) Is acting within the scope of his official duties as an employee or authorized agent of a State or the United States to administer or protect or aid in the administration or protection of land, water, wildlife, livestock, domesticated animals, human life or crops; or

(2) Is acting within the limitations of a permit referred to in § 19.21 or § 19.31 of this part.

Subpart C—Federal Permits

§ 19.21 Limitation on Federal permits.

No Federal permits will be issued to authorize any person to hunt, shoot, or harass any wildlife from an aircraft, except for Federal permits to scare or herd migratory birds referred to in § 21.41 of this subchapter.

Subpart D—State Permits and Annual Report Requirements

§ 19.31 State permits.

(a) Except as provided in § 19.3, States may issue permits to persons to engage in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops. States may not issue permits for the purpose of sport hunting.

(b) Upon issuance of a permit by a State to a person pursuant to this section, the issuing authority will provide immediate notification to the Special Agent in Charge having jurisdiction according to § 10.22.

§ 19.32 Annual reporting requirements.

(a) Any State issuing permits to persons to engage in airborne hunting or harassing of wildlife or any State whose employees or agents participate in airborne hunting or harassing of wildlife for purposes of administering or protecting land, water, wildlife, livestock, domestic animals, human life or crops, shall file with the Director, an annual report on or before July 1 for the preceding calendar year ending December 31.

(b) The annual report required by this section shall contain the following information as to each such permit issued:

(1) The name and address of each person to whom a permit was issued.

(2) Permit number and inclusive dates during which permit was valid.

(3) The aircraft number of the aircraft used and the location where such aircraft was based.

(4) Common name and number of the wildlife for which authorization to take was given and a description of the area from which the wildlife were authorized to be taken.

(5) The purpose for which the permit was issued, specifically identifying whether the permit was issued to protect land, water, wildlife, livestock, domestic animals, crops, or human life.

(6) The common name and number of wildlife taken by permittees and State employees or agents.

(c) A compilation of all annual reports required by this section shall be made by the Director and furnished to any State filing such annual report.

PART 20—MIGRATORY BIRD HUNTING

Subpart A—Introduction

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20.1 Scope of regulations.
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20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.
20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.
20.106 Seasons, limits, and shooting hours for sandhill cranes.
20.107 Seasons, limits, and shooting hours for whistling swans.
20.108 Non-toxic shot zones.
20.109 Extended seasons, limits and hours for taking migratory game birds by falconry.
20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

Subpart L—Administrative and Miscellaneous Provisions

20.131 Extension of seasons.

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20.132 Subsistence use in Alaska.
20.133 Hunting regulations for crows.
20.134 Nontoxic shot.

Subpart M—[Reserved]

Subpart N—Special Procedures for Issuance of Annual Hunting Regulations

20.151 Purpose and scope.
20.152 Definitions.
20.153 Regulations committee.
20.154 Flyway Councils.
20.155 Public file.

AUTHORITY: Migratory Bird Treaty Act, sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 704); sec. 3(h), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712), unless otherwise noted.

SOURCE: 38 FR 22021, Aug. 15, 1973, unless otherwise noted.

Subpart A—Introduction

§ 20.1 Scope of regulations.

(a) *In general.* The regulations contained in this part relate only to the hunting of migratory game birds, and crows.

(b) *Procedural and substantive requirements.* Migratory game birds may be taken, possessed, transported, shipped, exported, or imported only in accordance with the restrictions, conditions, and requirements contained in this part. Crows may be taken, possessed, transported, exported, or imported only in accordance with Subpart H of this part and the restrictions, conditions, and requirements prescribed in § 20.133.

§ 20.2 Relation to other provisions.

(a) *Migratory bird permits.* The provisions of this part shall not be construed to alter the terms of any permit or other authorization issued pursuant to part 21 of this subchapter.

(b) *Migratory bird hunting stamps.* The provisions of this part are in addition to the provisions of the Migratory Bird Hunting Stamp Act of 1934 (48 Stat. 451, as amended; 16 U.S.C. 718a).

(c) *National wildlife refuges.* The provisions of this part are in addition to, and are not in lieu of, any other provision of law respecting migratory game birds under the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927, as amended; 16

U.S.C. 668dd) or any regulation made pursuant thereto.

(d) *State Laws for the protection of migratory birds.* No statute or regulation of any State shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this part, however, nothing in this part shall be construed to prevent the several States from making and enforcing laws or regulations not inconsistent with these regulations and the conventions between the United States and any foreign country for the protection of migratory birds or with the Migratory Bird Treaty Act, or which shall give further protection to migratory game birds.

Subpart B—Definitions

§ 20.11 Meaning of terms.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

"Migratory game birds" means those migratory birds included in the terms of conventions between the United States and any foreign country for the protection of migratory birds, for which open seasons are prescribed in this part and belong to the following families:

(1) Anatidae (ducks, geese, brant, and swans);

(2) Columbidae (doves and pigeons);

(3) Gruidae (little brown cranes);

(4) Rallidae (rails, coots, and gallinules); and

(5) Scolopacidae (woodcock and snipe).

A list of migratory birds protected by the international conventions and the Migratory Bird Treaty Act appears in § 10.13 of this subchapter.

"Open season" means the days on which migratory game birds may lawfully be taken. Each period prescribed as an open season shall be construed to include the first and last days thereof.

"Closed season" means the days on which migratory game birds shall not be taken.

"Daily bag limit" means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season in any one specified geographic area for which a daily bag limit is prescribed.

"Aggregate daily bag limit" means the maximum number of migratory game birds permitted to be taken by one person in any one day during the open season when such person hunts in more than one specified geographic area for which a daily bag limit is prescribed. The aggregate daily bag limit it equal to, but shall not exceed, the largest daily bag limit prescribed for any one of the specified geographic areas in which taking occurs.

"Possession limit" means the maximum number of migratory game birds permitted to be possessed by any one person when lawfully taken in the United States in any one specified geographic area for which a possession limit is prescribed.

"Aggregate possession limit" means the maximum number of migratory game birds taken in the United States, permitted to be possessed by any one person when taking and possession occurs in more than one specified geographic area for which a possession limit is prescribed. The aggregate possession limit is equal to, but shall not exceed, the largest possession limit prescribed for any one of the specified geographic areas in which taking and possession occurs.

"Personal abode" means one's principal or ordinary home or dwelling place, as distinguished from his temporary or transient place of abode or dwelling such as a hunting club, or any club house, cabin, tent, or trailer house used as a hunting club, or any hotel, motel, or rooming house used during a hunting, pleasure, or business trip.

"Migratory bird preservation facility" means:

(i) Any person who, at his residence or place of business and for hire or other consideration; or

(ii) Any taxidermist, cold-storage facility or locker plant which, for hire or other consideration; or

(iii) Any hunting club which, in the normal course of operations; receives, possesses, or has in custody any migratory game birds belong to another person for purposes of picking, cleaning, freezing, processing, storage, or shipment.

"*Paraplegic*" means an individual afflicted with paralysis of the lower half of the body with involvement of both legs usually due to disease of or injury to the spinal cord.

[38 FR 22021, Aug. 15, 1973; 38 FR 23312, Aug. 29, 1973, as amended at 41 FR 31536, July 29, 1976; 42 FR 39667, Aug. 5, 1977; 45 FR 70275, Oct. 23, 1980]

Subpart C—Taking

§ 20.21 Hunting methods.

Migratory birds on which open seasons are prescribed in this part may be taken by any method except those prohibited in this section. No person shall take migratory game birds:

(a) With a trap, snare, net, rifle, pistol, swivel gun, shotgun larger than 10 gauge, punt gun, battery gun, machinegun, fish hook, poison, drug, explosive, or stupefying substance;

(b) With a shotgun of any description capable of holding more than three shells, unless it is plugged with a one-piece filler, incapable of removal without disassembling the gun, so its total capacity does not exceed three shells;

(c) From or by means, aid, or use of a sinkbox or any other type of low floating device, having a depression affording the hunter a means of concealment beneath the surface of the water;

(d) From or by means, aid, or use of any motor vehicle, motor-driven land conveyance, or aircraft of any kind, except that paraplegics and persons missing one or both legs may take from any stationary motor vehicle or stationary motor-driven land conveyance;

(e) From or by means of any motorboat or other craft having a motor attached, or any sailboat, unless the motor has been completely shut off and/or the sails furled, and its progress therefrom has ceased: *Provided,* That a craft under power may be used to retrieve dead or crippled birds; however, crippled birds may not be shot from such craft under power except in the seaduck area as permitted in Subpart K of this part;

(f) By the use or aid of live birds as decoys; although not limited to, it shall be a violation of this paragraph for any person to take migratory waterfowl on an area where tame or captive live ducks or geese are present unless such birds are and have been for a period of 10 consecutive days prior to such taking, confined within an enclosure which substantially reduces the audibility of their calls and totally conceals such birds from the sight of wild migratory waterfowl;

(g) By the use or aid of recorded or electrically amplified bird calls or sounds, or recorded or electrically amplified imitations of bird calls or sounds;

(h) By means or aid of any motordriven land, water, or air conveyance, or any sailboat used for the purpose of or resulting in the concentrating, driving, rallying, or stirring up of any migratory bird;

(i) By the aid of baiting, or on or over any baited area. As used in this paragraph, "baiting" shall mean the placing, exposing, depositing, distributing, or scattering of shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed so as to constitute for such birds a lure, attraction or enticement to, on, or over any areas where hunters are attempting to take them; and "baited area" means any area where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds is directly or indirectly placed, exposed, deposited, distributed, or scattered; and such area shall remain a baited area for 10 days following complete removal of all such corn, wheat or other grain, salt, or other feed. However, nothing in this paragraph shall prohibit:

(1) The taking of all migratory game birds, including waterfowl, on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting; and

(2) The taking of all migratory game birds, except waterfowl, on or over any lands where shelled, shucked, or unshucked corn, wheat or other grain, salt, or other feed has been distributed or scattered as the result of *bona fide*

agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: *Provided*, That manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown;

(j) While possessing shotshells loaded with shot other than steel shot or such shot approved as non-toxic by the Director pursuant to procedures set forth in § 20.134. *Provided*, That:

(1) This restriction applies only to the taking of ducks, geese, swans, and coots (*Fulica americana*) in areas described in § 20.108 as non-toxic shot zones; and

(2) Prior to September 1, 1980, this restriction applies only to 12-gauge shotshells.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22896, Aug. 27, 1973; 44 FR 2599, Jan. 12, 1979; 45 FR 70275, Oct. 23, 1980; 49 FR 4079, Feb. 2, 1984]

§ 20.22 Closed seasons.

No person shall take migratory game birds during the closed season.

§ 20.23 Shooting hours.

No person shall take migratory game birds except during the hours open to shooting as prescribed in Subpart K of this part.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22626, Aug. 23, 1973]

§ 20.24 Daily limit.

No person shall take in any 1 calendar day, more than the daily bag limit or aggregate daily bag limit, whichever applies.

[38 FR 22021, Aug. 15, 1973, as amended at 38 FR 22626, Aug. 23, 1973]

§ 20.25 Wanton waste of migratory game birds.

No person shall kill or cripple any migratory game bird pursuant to this part without making a reasonable effort to retrieve the bird, and retain it in his actual custody, at the place where taken or between that place and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

[41 FR 31536, July 29, 1976]

§ 20.26 Emergency closures.

(a) The Director may close or temporarily suspend any season established under Subpart K of this part:

(1) Upon a finding that a continuation of such a season would constitute an imminent threat to the safety of any endangered or threatened species or other migratory bird populations.

(2) Upon issuance of local public notice by such means as publication in local newspapers of general circulation, posting of the areas affected, notifying the State wildlife conservation agency, and announcement on local radio and television.

(b) Any such closure or temporary suspension shall be announced by publication of a notice to that effect in the FEDERAL REGISTER simultaneous with the local public notice referred to in paragraph (a) (2) of this section. However, in the event that it is impractical to publish a FEDERAL REGISTER notice simultaneously, due to the restriction in time available and the nature of the particular emergency situation, such notice shall follow the steps outlined in paragraph (a) of this section as soon as possible.

(c) Any closure or temporary suspension under this section shall be effective on the date of publication of the FEDERAL REGISTER notice; or if such notice is not published simultaneously, then on the date and at the time specified in the local notification to the public. Every notice of closure shall include the date and time of closing of the season and the area or areas affected. In the case of a temporary suspension, the date and time when the season may be resumed shall be provided by a subsequent local notification to the public, and by publication in the FEDERAL REGISTER.

[41 FR 31536, July 29, 1976]

Subpart D—Possession

§ 20.31 Prohibited if taken in violation of Subpart C.

No person shall at any time, by any means, or in any manner, possess or have in custody any migratory game bird or part thereof, taken in violation of any provision of Subpart C of this part.

§ 20.32 During closed season.

No person shall possess any freshly killed migratory game birds during the closed season.

§ 20.33 Possession limit.

No person shall possess more migratory game birds taken in the United States than the possession limit or the aggregate possession limit, whichever applies.

§ 20.34 Opening day of a season.

No person on the opening day of the season shall possess any freshly killed migratory game birds in excess of the daily bag limit, or aggregate daily bag limit, whichever applies.

§ 20.35 Field possession limit.

No person shall possess, have in custody, or transport more than the daily bag limit or aggregate daily bag limit, whichever applies, of migratory game birds, tagged or not tagged, at or between the place where taken and either (a) his automobile or principal means of land transportation; or (b) his personal abode or temporary or transient place of lodging; or (c) a migratory bird preservation facility; or (d) a post office; or (e) a common carrier facility.

[41 FR 31536, July 29, 1976]

§ 20.36 Tagging requirement.

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, shipping, transportation, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds have a tag attached, signed by the hunter, stating his address, the total number and species of birds, and the date such birds were killed. Migratory game birds being transported in any vehicle as the personal baggage of the possessor shall not be considered as being in storage or temporary storage.

§ 20.37 Custody of birds of another.

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.38 Possession of live birds.

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under authority of this part.

§ 20.39 Termination of possession.

Subject to all other requirements of this part, the possession of birds taken by any hunter shall be deemed to have ceased when such birds have been delivered by him to another person as a gift; or have been delivered by him to a post office, a common carrier, or a migratory bird preservation facility and consigned for transport by the Postal Service or a common carrier to some person other than the hunter.

[41 FR 31537, July 29, 1976]

§ 20.40 Gift of migratory game birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

[42 FR 39668, Aug. 5, 1977]

Subpart E—Transportation Within the United States

§ 20.41 Prohibited if taken in violation of Subpart C.

No person shall at any time, by any means, or in any manner, transport any migratory game bird or part thereof, taken in violation of any provision of Subpart C of this part.

§ 20.42 Transportation of birds of another.

No person shall transport migratory game birds belonging to another person unless such birds are tagged as required by § 20.36.

§ 20.43 Species identification requirement.

No person shall transport within the United States any migratory game birds, except doves and band-tailed pigeons (*Columba fasciata*), unless the head or one fully feathered wing remains attached to each such bird at all times while being transported from the place where taken until they have arrived at the personal abode of the possessor or a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.44 Marking package or container.

No person shall transport by the Postal Service or a common carrier migratory game birds unless the package or container in which such birds are transported has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart F—Exportation

§ 20.51 Prohibited if taken in violation of Subpart C.

No person shall at any time, by any means, or in any manner, export or cause to be exported, any migratory game bird or part thereof, taken in violation of any provision of Subpart C of this part.

§ 20.52 Species identification requirement.

No person shall export migratory game birds unless one fully feathered wing remains attached to each such bird while being transported from the United States and/or any of its possessions to any foreign country.

§ 20.53 Marking package or container.

No person shall export migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart G—Importations

§ 20.61 Importation limits.

No person shall import migratory game birds in excess of the following importation limits:

(a) *Doves and pigeons.* (1) From any foreign country except Mexico, during any one calendar week beginning on Sunday, not to exceed 25 doves, singly or in the aggregate of all species, and 10 pigeons, singly or in the aggregate of all species.

(2) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

(b) *Waterfowl.* (1) From any foreign country except Canada and Mexico, during any one calendar week beginning on Sunday, not to exceed 10 ducks, singly or in the aggregate of all species, and five geese including brant, singly or in the aggregate of all species.

(2) From Canada, not to exceed the maximum number permitted to be exported by Canadian authorities.

(3) From Mexico, not to exceed the maximum number permitted by Mexican authorities to be taken in any one day: *Provided*, That if the importer has his Mexican hunting permit date-stamped by appropriate Mexican wildlife authorities on the first day he hunts in Mexico, he may import the applicable Mexican possession limit corresponding to the days actually hunted during that particular trip.

[40 FR 36346, Aug. 20, 1975]

§ 20.62 Importation of birds of another.

No person shall import migratory game birds belonging to another person.

§ 20.63 Species identification requirement.

No person shall import migratory game birds unless each such bird has one fully feathered wing attached, and such wing must remain attached while being transported between the port of entry and the personal abode of the possessor or between the port of entry and a migratory bird preservation facility.

[41 FR 31537, July 19, 1976]

§ 20.64 Foreign export permits.

No person shall import, possess or transport, any migratory game birds killed in a foreign country unless such birds are accompanied by export permits, tags, or other documentation required by applicable foreign laws or regulations.

§ 20.65 Processing requirement.

No person shall import migratory game birds killed in any foreign country, except Canada, unless such birds are dressed (except as required in § 20.63), drawn, and the head and feet are removed: *Provided*, That this shall not prohibit the importation of legally taken, fully feathered migratory game birds consigned for mounting purposes to a taxidermist who holds a current taxidermist permit issued to him pursuant to § 21.24 of this chapter and who is also licensed by the U.S. Department of Agriculture to decontaminate such birds.

§ 20.66 Marking of package or container.

No person shall import migratory game birds via the Postal Service or a common carrier unless the package or container has the name and address of the shipper and the consignee and an accurate statement of the numbers of each species of birds therein contained clearly and conspicuously marked on the outside thereof.

Subpart H—Federal, State, and Foreign Law

§ 20.71 Violation of Federal law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any act of Congress or any regulation issued pursuant thereto.

§ 20.72 Violation of State law.

No person shall at any time, by any means or in any manner, take, possess, transport, or export any migratory bird, or any part, nest, or egg of any such bird, in violation of any applicable law or regulation of any State.

§ 20.73 Violation of foreign law.

No person shall at any time, by any means, or in any manner, import, possess, or transport, any migratory bird, or any part, nest, or egg of any such bird taken, bought, sold, transported, possessed, or exported contrary to any applicable law or regulation of any foreign country, or State or province thereof.

Subpart I—Migratory Bird Preservation Facilities

§ 20.81 Tagging requirement.

No migratory bird preservation facility shall receive or have in custody any migratory game birds unless such birds are tagged as required by § 20.36.

[41 FR 31537, July 29, 1976]

§ 20.82 Records required.

(a) No migratory bird preservation facility shall:

(1) Receive or have in custody any migratory game bird unless accurate records are maintained which can identify each bird received by, or in the custody of, the facility by the name of the person from whom the bird was obtained, and show (i) the number of each species; (ii) the location where taken; (iii) the date such birds were received; (iv) the name and address of the person from whom such birds were received; (v) the date such

birds were disposed of; and (vi) the name and address of the person to whom such birds were delivered, or

(2) Destroy any records required to be maintained under this section for a period of 1 year following the last entry on the record.

(b) Record keeping as required by this section will not be necessary at hunting clubs which do not fully process migratory birds by removal of both the head and wings.

[41 FR 38510, Sept. 10, 1976]

§ 20.83 Inspection of premises.

No migratory bird preservation facility shall prevent any person authorized to enforce this part from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried.

[41 FR 31537, July 19, 1976]

Subpart J—Feathers or Skins

§ 20.91 Commercial use of feathers.

Any person may possess, purchase, sell, barter, or transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses the feathers of migratory waterfowl (ducks, geese, brant, and swans) killed by hunting pursuant to this part, or seized and condemned by Federal or State game authorities, except that:

(a) No person shall purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds taken under authority of this part; and

(b) No person shall purchase, sell, barter, or offer to purchase, sell, or barter mounted specimens of migratory game birds taken under authority of this part.

[38 FR 22021, Aug. 15, 1973, as amended at 45 FR 70275, Oct. 23, 1980]

§ 20.92 Personal use of feathers or skins.

Any person for his own use may possess, transport, ship, import, and export without a permit the feathers and skins of lawfully taken migratory game birds.

Subpart K—Annual Seasons, Limits, and Shooting Hours Schedules

§ 20.100 General provisions.

(a) The taking, possession, transportation, and other uses of migratory game birds by hunters is generally prohibited unless it is specifically provided for under regulations developed in accordance with the Migratory Bird Treaty Act. Consequently, hunting is prohibited unless regulatory schedules are established for seasons, daily bag and possession limits, and shooting (or hawking) hours. Migratory game bird population levels, including production and habitat conditions, vary annually. These conditions differ over North America, and within the United States, by flyways, States, and frequently areas within States. Thus, it is necessary to make annual adjustments in the schedules to limit the harvests of migratory game birds to permissible levels.

(b) The development of these schedules involves annual data gathering programs to determine migratory game bird population status and trends, evaluations of habitat conditions, harvest information, and other factors having a bearing on the anticipated size of the fall flights of these birds. The proposed hunting schedules are announced early in the spring, and following consideration of additional information as it becomes available, as well as public comment, they are modified and published as supplemental proposals. These are also open to public comment. Public hearings are held for the purpose of providing additional opportunity for public participation in the rulemaking process.

(16 U.S.C. 701-708h)

[44 FR 7147, Feb. 6, 1979]

§ 20.101 Seasons, limits, and shooting hours for Puerto Rico and the Virgin Islands.

This section provides for the annual hunting of certain doves, pigeons, ducks, coots, gallinules, and snipe in Puerto Rico; and for certain doves and pigeons in the Virgin Islands.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7147, Feb. 6, 1979]

§ 20.102 Seasons, limits, and shooting hours for Alaska.

This section provides for the annual hunting of certain waterfowl (ducks, geese, and brant), snipe, and sandhill cranes in Alaska.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7147, Feb. 6, 1979]

§ 20.103 Seasons, limits, and shooting hours for mourning and white-winged doves and wild pigeons.

This section provides for the annual hunting of certain doves and pigeons in the 48 contiguous United States. The mourning dove hunting regulations are arranged by the Eastern, Central, and Western Management Units.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7147, Feb. 6, 1979]

§ 20.104 Seasons, limits, and shooting hours for rails, woodcock, and common (Wilson's) snipe.

This section provides for the annual hunting of certain rails, woodcock, and snipe in the 48 contiguous United States.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7148, Feb. 6, 1979]

§ 20.105 Seasons, limits, and shooting hours for waterfowl, coots, and gallinules.

This section provides for the annual hunting of certain waterfowl (ducks, geese, brant), coots, and gallinules in the 48 contiguous United States. The regulations are arranged by the Atlantic, Mississippi, Central, and Pacific Flyways. These regulations often vary within flyways or States, and by time periods.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7148, Feb. 6, 1979]

§ 20.106 Seasons, limits, and shooting hours for sandhill cranes.

This section provides for the annual hunting of sandhill cranes in designated portions of the Central Flyway.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7148, Feb. 6, 1979]

§ 20.107 Seasons, limits, and shooting hours for whistling swans.

This section provides for the annual hunting of whistling swans in Utah and designated areas in Montana and Nevada.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7148, Feb. 6, 1979]

§ 20.108 Non-toxic shot zones.

The areas described within the States indicated below are designated for the purpose of § 20.21(j) as non-toxic shot zones for waterfowl hunting.

Atlantic Flyway

Connecticut

1. That portion of New Haven and Fairfield Counties bounded by a line beginning at the north end of the breakwater at Milford Point extending south to Stratford Point, north along Prospect Drive and Route 113 to Interstate 95, easterly along I-95 to Naugatuck Avenue, southerly along Naugatuck Avenue and Milford Point Road and continuing along a line extending from the end of Milford Point Road to the north end of the breakwater at Milford Point.

2. That portion of New Haven County along the Quinnipiac River known as the Quinnipiac Meadows beginning at the intersection of Sackett Point Road and I-91, extending south along I-91 to Route 5, northerly along Route 5 to Sackett Point Road, and easterly along Sackett Point Road to I-91.

Delaware

All lakes, ponds, marshes, swamps, bays, rivers, and streams or within 150 yards thereof within the boundaries of the following areas:

1. Chesapeake and Delaware Canal State Wildlife Area.
2. Augustine State Wildlife Area.
3. Woodland Beach State Wildlife Area.
4. Little Creek State Wildlife Area.
5. Prime Hook State Wildlife Area.
6. Bombay Hook National Wildlife Refuge.
7. Prime Hook National Wildlife Refuge.
8. Cape Henlopen and Delaware Seashore State Parks and Assawoman and Gordon's Pond Wildlife Areas.

Florida

That portion of Brevard County lying east of Interstate Highway 95; Osceola, Broward, and Dade Counties, Leon County (exclusive of Lake Talquin and the Ochlockonee River); Lake Miccosukee in Leon and Jefferson Counties; Orange Lake and Lochloosa Lake in Alachua County; the area lying lakeward of, and bounded by the Lake Okeechobee levee, by the State Road 78, Kissimmee River bridge, and by State Road 78 from its intersections with the Lake Okeechobee levee at points near Lakeport and the Old Sportsman's Village site; all of the Occidental phosphate mine pits east of SR 137, Black Still Road and Christie Tower Road, west of SR 135, south of SR 6 and north of White Springs (all located in Township 1 north, Ranges 15 and 16 east and Township 1 south, Ranges 15 and 16 east in Hamilton County); Lake Ponte Vedra in St. Johns County (all waters north of the Guana Dam); IMC Wildlife Management Area in Polk County; and M-K Ranch public waterfowl area in Gulf County.

Chassahowitzka National Wildlife Refuge, Loxahatchee National Wildlife Refuge, Merritt Island National Wildlife Refuge, and Lower Suwannee National Wildlife Refuge.

Georgia

Eufaula National Wildlife Refuge and Savannah National Wildlife Refuge.

Massachusetts

Parker River National Wildlife Refuge and Plum Island.

New Jersey

That portion of the State bounded on the north by the Shark River, on the west by the Garden State Parkway, on the south by the Cape May Canal, and on the east by the Atlantic Ocean.

Forsythe National Wildlife Refuge.

New York

All waters (including bays, lakes, ponds, marshes, swamps, rivers, streams, and ocean waters but not including temporary or sheet water) and all land areas within 150 yards of all waters of the following portions of New York:

1. That part of upstate New York west of I-81; that is north of I-90, and within a 150-yard zone of land adjacent to the margins of said waters in those areas, but not to include drainage ditches and temporary sheet waters outside the 150-yard zone of land adjacent to the margins of aforesaid waters, nor the waters of the Niagara River north of the Peace Bridge and the waters of Lake Ontario, outside the barrier beach, from the mouth of the Niagara River in Niagara County to Tibbets Point in Jefferson County but not to include the Henderson Bay-Black River Bay area east of a line running from Snowshoe Point on Henderson Harbor to Pillar Point on the southward portion of Pillar Point Peninsula.

2. That part of Nassau County south of Route 27 that is west of Wantagh Parkway and its southerly extension to the Atlantic Ocean.

3. Oneida Lake and adjacent areas bounded on the north by Route 49, on the east by Route 13, on the south by Route 31 and on the west by I-81.

4. Wilson Hill Wildlife Management area in St. Lawrence County.

5. Upper and Lower Lakes Wildlife Management area in St. Lawrence County.

6. That area including and adjacent to the Hudson River south of an imaginary line extending perpendicular from the east and west shores and passing through the flashing green light buoy number 13 in the river near Lampman Hill in the Town of Coxsackie, and north of an imaginary line extending

perpendicular from the east and west shores and passing through flashing red light buoy number 28 in the river near Tyler Point in the Town of Ulster; except for that portion of the area enclosed by a continuous line starting on the west shore of the river and extending eastward along the imaginary perpendicular line to flashing red light buoy number 28, then northward along the east side of the deep water channel which is marked by red buoys to red buoy number 50 (Cruger and Magdalen Islands are entirely in the steel shot zone), then westward to the west shore of the river following an imaginary line perpendicular to the shore, then southward along the shore to the point of beginning.

7. Iroquois and Montezuma National Wildlife Refuges.

North Carolina

Cedar Island National Wildlife Refuge, Mattamuskeet National Wildlife Refuge, and Swanquarter National Wildlife Refuge.

Pennsylvania

Crawford County, Middle Creek Wildlife Management Area in Lancaster and Lebanon Counties, and the waters of the Susquehanna River beginning at the confluence of the North and West branches at Northumberland and continuing southward to the Maryland-Pennsylvania State boundary and including a 25-yard zone of land adjacent to the waters of the Susquehanna River that are described above.

Erie National Wildlife Refuge.

Rhode Island

That portion of Washington County lying south and east of U.S Route 1 but excluding Block Island and the waters of Block Island Sound and Narragansett Bay.

Vermont

Missisquoi National Wildlife Refuge.

MISSISSIPPI FLYWAY

Alabama

Eufaula National Wildlife Refuge.

Illinois

Oakwood Bottoms Greentree Reservoir, Rice Lake Public Hunting Area, Union County Public Hunting Area, Horseshoe Lake, Horseshoe Lake Public Hunting Area (Alexander County), Rend Lake and related subimpoundments and all adjacent lands managed by the U.S. Army Corps of Engineers and the Illinois Department of Conservation.

Crab Orchard National Wildlife Refuge.

Henderson, Peoria, Fulton, Mason, Calhoun, Pike, Alexander, Jackson, Union, and Williamson Counties.

Indiana

1. On all waters of Lake Porter (except that area south of U.S. 30 and north of S.R. 8), LaPorte, Newton (north of S.R. 14), Jasper (north of S.R. 114), Starke, Elkhart, Kosciusko, Lagrange, and Steuben Counties and within 150-yard zone of land in these counties adjacent to the margins of these waters. This includes lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of Lake Michigan and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. All waters and within a 150-yard zone of land adjacent to the margins of these waters on the Jasper-Pulaski, Tri-County, and Glendale Fish and Wildlife Areas.

3. Within the boundaries of the following state-owned or state-operated properties: Hovey Lake Fish and Wildlife Area in Posey County, Mallard Roost Wetland Conservation Area in Noble County, Monroe Reservoir in Monroe and Brown Counties, and Patoka Reservoir in Dubois, Crawford and Orange Counties.

4. Within the proposed boundaries of the Menominee Wetlands Conservation Area in Marshall County.

Iowa

1. In Fremont and Mills Counties on all waters and a 150-yard zone of land in these two Counties adjacent to waters. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Missouri River and drainage ditches and temporary sheet water that are more than 150 yards from the waters described above.

2. All waters and a 150 yard zone of land adjacent to these waters on the following public hunting areas under the jurisdiction of the State Conservation Commission:

Sweet Marsh in Bremer County
Big Marsh in Butler County
Green Island Area in Jackson County
Princeton Area in Scott County

3. Upper Mississippi River Wildlife and Fish Refuge and De Soto National Wildlife Refuge.

4. A zone bounded on the west by the Missouri River, on the south by Interstate 680, on the east by Interstate 29, and on the north by the Soldier River.

Louisiana

Lacassine National Wildlife Refuge and Sabine National Wildlife Refuge.

AVAILABLE

Michigan

A. *Eastern Upper Peninsula.* 1. That area of Chippewa County encompassed by a line from the tip of Conely's Point (Section 4, T44N R2E) southeasterly to the tip of Winter Point (Section 14 T44N R2E) to the tip of Rocky Point (Section 25, T44N R2E); then south on Rocky Point Road and west on Gogomain Road to the Town of Pickford; north on M-129 to the junction with 15-Mile Road (Section 19, T45N R1E); to the Village of Neebish; then south on the paved road from Neebish (Scenic Drive) to the point of beginning at Conely's Point.

2. The waters of Potagannissing Flooding on Drummond Island.

B. *Houghton Lake.* That area of water and land encompassing Houghton Lake, Roscommon County, described by road boundaries as follows: south of Meads Landing Road, County 300 and County 100; west of M-18; north of M-55; and east of US-27.

C. *Saginaw Bay.* 1. That area of Arenac, Bay, Tuscola, and Huron Counties south of US-23; east of M-13; north of M-25; south of Cresent Beach Road (Caseville Township, Huron County); and southwest of a line from the tip of Sand Point (Section 11 T17N R9E, Huron County) to Point Lookout (Section 13, T19N R7E, Arenac County); and Shore Road (Sims Township, Arenac County).

2. On all lands and waters within the posted boundaries of the following State or Federal management areas:

a. Crow Island State Game Area—Bay and Saginaw Counties.

b. Shiawassee River State Game Area—Saginaw County.

c. Shiawassee National Wildlife Refuge—Saginaw County.

D. *Southeastern Michigan.* 1. That area of Jackson County (north of I-94 and east of M-106); Ingham County (east of M-106/M-52 and south of M-36); Livingston County (south of M-36, east of M-155, and south of M-59); Oakland County (south of M-59, west of US-24 [Telegraph Road], north of I-96, and west of I-275); Wayne County (west of I-275 and north of M-14); Washtenaw County (north of M-14 and I-94); and St. Clair, Macomb, Wayne and Monroe Counties east of I-94 and I-75 including the U.S. waters of the St. Clair River, Lake St. Clair, and Detroit River, and Lake Erie.

2. On all lands and waters within the posted boundaries of the U.S. Fish and Wildlife Service Schlee Waterfowl Production Area located in Section 6, T3S R2E of Grass Lake Township, Jackson County.

E. *Southwestern Michigan.* 1. Muskegon, Ottawa, and Kalamazoo Counties, and Allegan County west of US-131, including the waters of Lake Michigan lakeward for one-half mile from the shore. All county boundary waters and lakes partially within the steel shot zone are totally included.

2. All lands and waters within the posted boundary of the Muskegon County Wastewater System, Muskegon County.

Mississippi

Hillside National Wildlife Refuge, Mathews Brake National Wildlife Refuge, Morgan Brake National Wildlife Refuge, Noxubee National Wildlife Refuge, and Panther Swamp National Wildlife Refuge.

Minnesota

1. All State Wildlife Management Areas and all Federal Waterfowl Production Areas.

2. On the waters on Swan and Middle Lakes in Nicollet County, North and South Heron Lakes in Jackson County, Pelican Lake in Wright County, Bear Lake in Freeborn County, and Christina Lake in Douglas and Grant Counties and within a 150-yard zone of land adjacent to the margins of the above lakes.

3. Beginning at the intersection of the midline of the Mississippi River and U.S. Highway 61 at Hastings, thence southerly along U.S. Highway 61 to U.S. Highway 16 at LaCrescent, thence southerly along U.S. Highway 16 to State Trunk Highway 26, thence southerly along State Trunk Highway 26 to the southern boundary of the State; thence along the southern and eastern boundaries of the State to the confluence of the St. Croix and Mississippi Rivers, thence along the midline of the Mississippi River to the point of beginning.

4. *Lac qui Parle Zone:* Beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27, Lac qui Parle County; thence along CSAH 27 to CSAH 20, Lac qui Parle County, thence along CSAH 20 to State Trunk Highway (STH) 40; thence along STH 40 to STH 119; thence along STH 119 to CSAH 34, Lac qui Parle County; thence along CSAH 34 to CSAH 19, Lac qui Parle County; thence along CSAH 19 to CSAH 38, Lac qui Parle County; thence along CSAH 38 to U.S. Highway 75; thence along U.S. Highway 75 to STH 7; thence along STH 7 to CSAH 6, Swift County; thence along CSAH 6 to County Road 65, Swift County; thence along County Road 65 to County Road 34, Chippewa County; thence along County Road 34 to CSAH 12, Chippewa County; thence along CSAH 12 to CSAH 9, Chippewa County; thence along CSAH 9 to STH 7; thence along STH 7 to Montevideo; thence along the municipal boundary of Montevideo to U.S. Highway 212; thence along U.S. Highway 212 to the point of the beginning.

Tamarac National Wildlife Refuge, Sherburne National Wildlife Refuge, Upper Mississippi River Wildlife and Fish Refuge, and Minnesota Valley National Wildlife Refuge.

Missouri

Montrose Wildlife Management Area, Duck Creek Wildlife Management Area, Schell-Osage Wildlife Management Area, Fountain Grove Wildlife Management Area, Ted Shanks Wildlife Management Area, Marais Temps Clair Wildlife Management Area, Otter Slough Wildlife Management Area, and those parts of the Swan Lake and Mingo National Wildlife Refuges in which hunting of waterfowl is authorized.

Holt, St. Charles, Pike, and Lincoln Counties, and those portions of Chariton, Livingston, Carroll, Lafayette, Saline, and Linn Counties contained within the Swan Lake Goose Management Area.

Ohio

The Maumee River in Wood County and on all waters of Erie, Ottawa, Sandusky, Cuyahoga, Wayne, Holmes, and Lucas Counties and when hunting waterfowl within a 150-yard zone of land adjacent to the margins of these waters. These waters mentioned in this paragraph include lakes, ponds, marshes, swamps, rivers, streams, and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described in this paragraph are excluded from the nontoxic shot requirements.

Ottawa National Wildlife Refuge.

Tennessee

Lower Hatchie National Wildlife Refuge, Hatchie National Wildlife Refuge, and Cross Creeks National Wildlife Refuge.

Wisconsin

1. In that portion of the State lying west of the Burlington Northern Railway in Pierce, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford and Grant Counties and all signed federal lands lying east of such railway in these same Counties.

2. On all waters in the Counties of Calumet, Columbia, Dane, Dodge, Fond du Lac, Green Lake, Jefferson, Kenosha, Manitowoc, Marquette, Milwaukee, Outagamine, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, Winnebago, Washington, Waupaca and those portions of Oconto and Marinette Counties east of U.S. Highway 41, Waushara County east of Highway 49, and that portion of Brown County lying northwest of the Fox River and east of U.S. Highway 141, and the Brown County islands in Green Bay and including the west 1,000 feet of Green Bay waters, and within a 150-yard zone of land adjacent to the margins of these waters, except that in the Horicon and Central goose management zones, nontoxic shot will be requried for all waterfowl hunting. The waters referred to above include lakes, ponds, marshes, swamps, rivers, streams and seasonally flooded areas of all types. Drainage ditches and temporary sheet water more than 150 yards from the water areas described above and the open water of Lake Michigan and Green Bay are excluded from the non-toxic shot requirements. All county boundary waters and lakes partially within a steel shot zone are totaly included.

3. On any State wildlife area within the zones described in (2), steel shot is required for hunting waterfowl anywhere on State-owned lands or waters within the boundaries of said wildlife area and on the following State-owned wildlife areas that are not within the zones described in (2): Mead Wildlife Area in Marathon, Wood and Portage Counties, Wood County Wildlife Area and Sandhill Wildlife Area in Wood County, Meadow Valley.

4. Trempealeau National Wildlife Refuge, Necedah National Wildlife Refuge, Upper Mississippi River Wildlife and Fish Refuge, and Horicon National Wildlife Refuge.

CENTRAL FLYWAY

Kansas

Barton County: The Cheyenne Bottoms Wildlife Area except the south 200 yards west of U.S. 156 and east of the north-south centerline of S36, T18S, R13W in Barton County and that area west of U.S. 281 commonly known as the inlet canal.

Linn County: All of the Marais des Cygnes Wildlife Areas.

Montgomery County: All of the Elk City Reservoir and Wildlife Area including all lands and waters managed by the U.S. Corps of Engineers and the Kansas Forestry, Fish and Game Commission.

Neosho County: All of the Neosho Wildlife Area.

Reno County: All of the Cheney Reservoir and Wildlife Area including all lands managed by the U.S. Bureau of Reclamation and the Kansas Forestry, Fish and Game Commission. Also, that portion of Quivira National Wildlife Refuge in Reno County.

Stafford County.

Rice County: That portion of the Quivira National Wildlife Refuge in Rice County.

Nebraska

1. All waters of Clay, Fillmore, Kearney, and Phelps Counties and zone of land within 150 yards of these waters. Included are all lakes, ponds, marshes, lagoons, rivers and streams and seasonally flooded areas of all types. Excluded from these provisions are the waters of the Platte River and tem-

porary sheet water that are more than 150 yards from the waters described above.

2. All State and federally owned or controlled public hunting areas as designated by the Commission and posted as non-toxic shot areas for waterfowl hunting (Macon WPA, Quadhammer WPA, and Ritterbush WPA in Franklin County; Elley WPA, Peterson WPA, Victor Lake WPA, Johnson Lake Reservior, and Elwood Reservior in Gosper County; County Line WPA, Sinninger WPA, and Waco WPA and York County; (Pintail WPA—Hamilton County; Smartweed WMA—Nuckolls County; Harlan County Reservoir—Harlan County; Schilling WMA—Cass County).

3. Those lands and waters in Keith and Garden Counties defined as: All lands and water lying west of Omaha Beach and Eagle Canyon access roads between State Highway 92 and U.S. Highway 26 to the Lewellen Bridge.

4. That area west of Nebr. 27 from the South Dakota/Nebraska line, south to Nebr. 2, east on Nebr. 2 to Nebr. 61, south on Nebr. 61 to Nebr. 23 and west on Nebr. 23 to the Colorado/Nebraska line.

New Mexico

That area bounded by a line beginning at the junction of U.S. Highway 60 and Interstate Highway 25 and running south along Interstate 25 approximately 13.5 miles to the San Acacia overpass; thence east along a paved and dirt road to the west bank of the Rio Grande at the San Acacia diversion; thence northeast along the west bank of the Rio Grande to U.S. Highway 60; thence west along U.S. Highway 60 to its junction with Interstate Highway 25.

Sevilleta National Wildlife Refuge, Las Vegas National Wildlife Refuge, Bosque del Apache National Wildlife Refuge, and Bitter Lake National Wildlife Refuge.

South Dakota

Those portions of Potter and Sully Counties lying west of U.S. 83; that portion of Hughes County lying west of U.S. 83 and that portion of Hughes County lying south of U.S. 14; that portion of Hyde County lying south of U.S. 14; and west of Hyde County F.A.S. 6547 (commonly called the Holabird Grade) and that portion of Hyde County lying south of U.S. 34 and west of S.D. 47; and that portion of Buffalo County lying west of S.D. 47. That portion of Lyman and Stanley Counties lying east and north of the Lower Brule-Antelope Creek Road from S.D. 47 to Fort Pierre. That portion of Stanley County lying north of S.D. 34 for approximately 5 miles west of Fort Pierre and east of Stanley County F.A.S. 6193 and S.D. 1806 to Minneconjou Bay. All waters, islands and bars of the Missouri River and its embayments from the north Potter County line downstream to Big Bend Dam, including the Cheyenne River embayment downstream from Minneconjou Bay. On, or within 100 yards of the Grupe Slough State Refuge in Marshall County. On Lake Andes or within 100 yards of the water's edge in Charles Mix County. On the Missouri River or within the water's edge from Fort Randall Dam to Choteau Creek, including all islands and bars.

In the above described zones, persons under 16 years of age using 16 gauge, 28 gauge or .410 gauge shotguns, and persons using muzzle-loading shotguns are exempted from the nontoxic shot requirements.

Oklahoma

Washita National Wildlife Refuge and Sequoyah National Wildlife Refuge.

Sequoyah County.

Texas

That area lying within boundaries beginning at the Louisiana State line, thence westward along IH 10 to the junction of U.S. Highway 90 and IH 10 in Beaumont, thence westward along U.S. 90 to its junction with IH 610 in Houston, thence north and west along IH 610 to its junction with U.S. Highway 290 in Houston, thence westward along U.S. Highway 290 to its junction with State Highway 159 in Hempstead, thence southwestward along State Highway 159 to its junction with State Highway 36 in Bellville, thence eastward along State Highway 36 to its junction with FM 2429, thence southward along FM 2429 to its junction with FM 949, thence southwestward along FM 949 to its junction with IH 10, thence westward along IH 10 to its junction with U.S. Highway 77 at Schulenburg, thence southward along U.S. Highway 77 to its junction with the U.S.-Mexico international boundary at Brownsville, thence eastward along the U.S.-Mexico international boundary to the Gulf of Mexico, thence east and seaward to the three marine league limit, thence northeastward along the three marine league limit to the Louisiana State line, thence northward along the Texas-Louisiana State line to its junction with IH 10.

Anahuac National Wildlife Refuge, Big Boggy National Wildlife Refuge, Brazoria National Wildlife Refuge, McFaddin National Wildlife Refuge, San Bernard National Wildlife Refuge, Texas Point National Wildlife Refuge and Matagorda Island National Wildlife Refuge.

PACIFIC FLYWAY

California

That portion of the Lower Klamath Basin (including all of Lower Klamath National

Wildlife Refuge) beginning at the junction of Highway 161 (State Line Road) and the Dorris-Brownell Road at the northwest corner of Indian Tom Lake; thence south and east of the Dorris-Brownell Road as it makes a semicircle and unites again with Highway 161; thence west along Highway 161 to the point of origin at the northwest side of Indian Tom Lake. Also included is the Tule Lake National Wildlife Refuge (excluding refuge lands on Sheepy Ridge) in the Tule Lake portion of the Klamath Basin.

Oregon

Sauvie Island Wildlife Management Area.

Ankeny National Wildlife Refuge, Baskett Slough National Wildlife Refuge, and William L. Finley Wildlife Refuge.

That portion of Klamath County lying west and south of a line commencing at the Oregon-California State line and proceeding along State Highways 39 and 39-140, U.S. Highway 97, and State Highway 62 to the Klamath County-Jackson County line.

Washington

Beginning at Interstate 5 and Highway 20 at Burlington, thence easterly along Highway 20 to Highway 9 at Sedro Woolley; thence southerly along Highway 9 to Highway 538 at Big Rock; thence westerly along Highway 538 to Mt. Vernon and Interstate 5; thence northerly along Interstate 5 to the point of origin.

Ridgefield National Wildlife Refuge.

[50 FR 5761, Feb. 15, 1985, as amended at 50 FR 19182, May 7, 1985; 50 FR 36434, Sept. 6, 1985]

§ 20.109 Extended seasons, limits, and hours for taking migratory game birds by falconry.

This section provides annual regulations by which falconers may take permitted migratory game birds.

NOTE: For FEDERAL REGISTER citations affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

(16 U.S.C. 701-708h)

[44 FR 7148, Feb. 6, 1979]

§ 20.110 Seasons, limits, and other regulations for certain Federal Indian reservations, Indian Territory, and ceded lands.

This section provides for establishing annual migratory bird hunting regulations for certain tribes on Federal Indian reservations, Indian Territory, and ceded lands.

NOTE: For FEDERAL REGISTER citation affecting annual regulatory schedules for this section, see the List of CFR Sections Affected in the Finding Aids section of this volume.

[50 FR 35764, Sept. 3, 1985]

Subpart L—Administrative and Miscellaneous Provisions

§ 20.131 Extension of seasons.

Whenever the Secretary shall find that emergency State action to prevent forest fires in any extensive area has resulted in the shortening of the season during which the hunting of any species of migratory game bird is permitted and that compensatory extension or reopening the hunting season for such birds will not result in a diminution of the abundance of birds to any greater extent than that contemplated for the original hunting season, the hunting season for the birds so affected may, subject to all other provisions of this subchapter, be extended or reopened by the Secretary upon request of the chief officer of the agency of the State exercising administration over wildlife resources. The length of the extended or reopened season in no event shall exceed the number of days during which hunting has been so prohibited. The extended or reopened season will be publicly announced.

§ 20.132 Subsistence use in Alaska.

(a) In Alaska, Eskimos and Indians may take, possess, and transport, in any manner and at any time, auks, auklets, guillemots, murres, and puffins and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

(b) In Alaska, any person may, for subsistence purposes, take, possess, and transport, in any manner and at any time, snowy owls and cormorants and their eggs for food and their skins for clothing, but the birds and eggs so taken shall not be sold or offered for sale.

§ 20.133 Hunting regulations for crows.

(a) Crows may be taken, possessed, transported, exported, or imported, only in accordance with such laws or regulations as may be prescribed by a State pursuant to this section.

(b) Except in the State of Hawaii, where no crows shall be taken, States may by statute or regulation prescribe a hunting season for crows. Such State statutes or regulations may set forth the method of taking, the bag and possession limits, the dates and duration of the hunting season, and such other regulations as may be deemed appropriate, subject to the following limitations for each State:

(1) Crows shall not be hunted from aircraft;

(2) The hunting season or seasons on crows shall not exceed a total of 124 days during a calendar year;

(3) Hunting shall not be permitted during the peak crow nesting period within a State; and

(4) Crows may only be taken by firearms, bow and arrow, and falconry.

§ 20.134 Nontoxic shot.

(a) *Approval procedures.* The Director, U.S. Fish and Wildlife Service shall determine that a specific type of shot material is acceptable for the purposes of § 20.21(j) if after a review of applications and supporting data submitted in accordance with this section, together with all other relevant evidence, it is concluded that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats.

(1) *Application.* All applications under this section shall be submitted to the Director and shall include (i) the name, chemical identity, and composition of the shot material; (ii) a full and complete report of the results of all experiemental work by the applicant on the toxicity of the shot material to migratory waterfowl and their habitat; (iii) data relating to the toxicity of the shot material to migratory waterfowl and their habitat obtained by other investigators; (iv) information on the effectiveness and performance of the ammunition made from this shot material; (v) any other information which the applicant believes will justify a finding of "nontoxicity;" and (vi) information analyzing the environmental impacts associated with use of the proposed shot material for waterfowl hunting (including information on possible health and safety hazards), which information should be of the type, quantity, and quality specified by the Council on Environmental Quality for Preparation of Environmental Impact Statements, in order that the Director can make an assessment of the environmental impact of the proposed activity as required under the National Environmental Policy Act.

(2) *Public participation.* Approximately 30 days after receipt of a complete and valid application for a determination of "nontoxicity," the Director will publish such application, or a summary thereof, in the FEDERAL REGISTER and invite public comment thereon for a period of at least 60 days.

(3) *Decision time table.* The Director, within 180 days after receipt of an application will make a determination of toxicity or "nontoxicity," he may reject such an application without prejudice to any later applications for the same shot material. Such a rejection without prejudice may be made if there exists insufficient data, or if the application contains insufficient data, to demonstrate that the shot material can be used in migratory waterfowl habitats without imposing a significant danger to such waterfowl or to such habitats. In making these decisions the Director is not limited to his review of the application, supporting data, and public comments, but may consider any data deemed relevant to a determination of toxicity. The Director may deem it necessary to require further testing of the shot material. Shot materials which have been demonstrated to cause no increase in the percentage of birds unretrieved (birds downed but not retrieved divided by birds downed) beyond that resulting from the use of steel shot under field test conditions similar to that used to assess performance of steel shot will, if they have met the other standards be approved as substitute shot. Notice of the Director's decision will be published in the FEDERAL REGISTER, to-

gether with a summary of the reasons for this determination.

(4) *Standards.* Acceptable substitute shot must meet the following standards relative to toxicity. The toxicity evaluation experiments must include undosed and controls dosed with five number 4 lead shot which experience 75 percent mortality.

(i) Less than 20 percent mortality to each sex of pen-reared, 6-month-old or older mallards during 6-week-long experiments after administering five number 4 shot via tube to the proventriculus to experimental groups of not less than 20 birds of each sex on an ad libitum diet of only whole kernel, dent yellow corn and water during both a winter period and a laying period. However, if the substitute shot is formed with a nontoxic coating over a toxic core substance, the time period for assessing mortality will not be until two weeks after all administered shot are completely eroded or passed.

(ii) No debilitating factor (e.g., immobility, excessive weakness or excessive weight loss, i.e., no more than 20 percent of undosed controls) caused by the proposed substitute shot.

(iii) No lowering of productivity performance as measured by parameters including number of eggs laid in first and second clutches, fertility, time of start of laying, interruption of laying sequence, hatchability and survivability of young up to 2 weeks of age.

(iv) No evidence of increased susceptibility to disease beyond that posed by steel shot.

(v) No significant known harmful effects to the environment.

[41 FR 31388, July 28, 1976]

Subpart M—[Reserved]

Subpart N—Special Procedures for Issuance of Annual Hunting Regulations

SOURCE: 46 FR 62079, Dec. 22, 1981, unless otherwise noted.

§ 20.151 Purpose and scope.

The rules of this Subpart N apply to the issuance of the annual regulations establishing seasons, bag limits, and other requirements for the seasonal hunting of migratory birds. The rules of this Subpart N do not apply to the issuance of regulations under Part 21 of this title or under Subparts A through J and L through M of this Part 20.

§ 20.152 Definitions.

As used in this Subpart N:

(a) "Flyway Council" means the Atlantic, Mississippi, Central, or Pacific Flyway Council;

(b) "Regulations Committee" means the Migratory Bird Regulations Committee of the Fish and Wildlife Service; and

(c) "Significant," as used in reference to a communication or other form of information or data, means related to the merits of the regulation and received, utilized, or transmitted by an official of the Department who is or may reasonably be expected to be involved in the decisional process on the regulation.

§ 20.153 Regulations committee.

(a) *Notice of meetings.* Notice of each meeting of the Regulations Committee to be attended by any person outside the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting. The notice will state the time, place, and general subject(s) of the meeting, as well as the extent of public involvement.

(b) *Public observation and written comment.* Each meeting of the Regulations Committee for which notice is published pursuant to paragraph(a) of this section will be open to the public for observation and the submission of written comments.

(c) *Public participation.* Except for the mid-summer meetings held in Washington, D.C., in conjuction with the public hearing on waterfowl and other late season frameworks, the public may participate in any meeting of the Regulations Committee for which notice is published pursuant to paragraph (a) of this section through the submission of oral statements that comply with the rules stated in the notice.

(d) *Minutes of meetings.* Minutes will be made of each meeting of the

Regulations Committee for which notice is published pursuant to paragraph (a) of this section.

§ 20.154 Flyway Councils.

(a) *Notice of meetings.* Notice of each meeting of a Flyway Council to be attended by any official of the Department will be published in the FEDERAL REGISTER at least two weeks before the meeting or as soon as practicable after the Department learns of the meeting. The notice will state the time, place, and general subject(s) of the meeting.

§ 20.155 Public file.

(a) *Establishment.* A public file will be established for each rulemaking to which this Subpart N is applicable.

(b) *Contents.* Except for information exempt from disclosure under 5 U.S.C. 552, a public file established pursuant to paragraph (a) of this section will contain:

(1) The minutes of Regulations Committee meetings made pursuant to paragraph (d) of § 20.153;

(2) Any written comments and other significant written communications which occur after the notice of proposed rulemaking;

(3) Summaries, identifying the source, of any significant oral communications which occure after the notice of proposed rulemaking; and

(4) Copies of or references to any other significant data or information.

PART 21—MIGRATORY BIRD PERMITS

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AUTHORITY: Migratory Bird Treaty Act, sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 704); sec. 3 (h)(3), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712).

SOURCE: 39 FR 1178, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 21.1 Purpose of regulations.

The regulations contained in this part supplement the general permit regulations of Part 13 of this subchapter with respect to permits for the taking, possession, transportation, sale, purchase, barter, banding and marking of migratory birds. This part also provides certain exceptions to permit requirements for public, scientific or educational institutions, and establishes depredation orders which provide certain limited exceptions to the Migratory Bird Treaty Act (16 U.S.C. 703-711).

[39 FR 1178, Jan. 4, 1974, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.2 Scope of regulations.

(a) Migratory birds, their parts, nests, or eggs, lawfully acquired prior to the effective date of Federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-711) may be possessed or transported without a Federal permit, but may not be purchased, sold, bartered, or offered for purchase, sale, trade, or barter, and all shipments of such birds must be marked as provided by 18 U.S.C. 44 and § 14.81 of this subchapter: *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) This Part 21, except for § 21.22 (banding or marking permits), does not apply to the bald eagle (*Haliaeetus leucocephalus*) or the golden eagle (*Aquila chrysaetos*) for which regulations are provided in Part 22 of this subchapter.

(c) The provisions of this part are in addition to, and are not in lieu of other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13).

(d) Migratory birds, their parts, nests or eggs which are lawfully possessed may be imported or exported without a Federal migratory bird permit.

[39 FR 1178, Jan. 4, 1974, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.3 Definitions.

In addition to definitions contained in Part 10 of this chapter, and unless the context requires otherwise, as used in this part:

"Bred in captivity" or "captive-bred" refers to raptors, including eggs, hatched in captivity from parents that mated or otherwise transferred gametes in captivity.

"Captivity" means that a live raptor is held in a controlled environment that is intensively manipulated by man for the purpose of producing raptors of selected species, and that has boundaries designed to prevent raptors, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of captivity may include, but are not limited to, artificial housing, waste removal, health care, protection from predators, and artificially supplied food.

"Falconry" means the sport of taking quarry by means of a trained raptor.

"Raptor" means a live migratory bird of the Order *Falconiformes* or the Order *Strigiformes*, other than a bald eagle (*Haliaeetus leucocephalus*) or a golden eagle (*Aquila chrysaetos*).

[48 FR 31607, July 8, 1983]

Subpart B—General Requirements and Exceptions

§ 21.11 General permit requirements.

No person shall take, possess, transport, sell, purchase, barter, or offer for sale, purchase or barter, any migratory bird, or the parts, nests, or eggs of such bird except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and Part 13, or as permitted by regulations in this part or Part 20 (the hunting regulations).

[39 FR 1178, Jan. 4, 1974, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.12 General exception to permit requirements.

The following exceptions to the permit requirement are allowed.

(a) Employees of the Department of the Interior authorized to enforce the provisions of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703-711), may, without a permit, take or otherwise acquire, hold in custody, transport, and dispose of migratory birds or their parts, nests, or eggs as necessary in performing their official duties.

(b) State game departments, municipal game farms or parks, and public museums, public zoological parks, accredited institutional members of the American Association of Zoological Parks and Aquariums (AAZPA) and public scientific or educational institutions may acquire by gift or purchase, possess, transport, and by gift or sale dispose of lawfully acquired migratory birds or their progeny, parts, nests, or eggs without a permit: *Provided*, That such birds may be acquired only from persons authorized by this paragraph or by a permit issued pursuant to this part to possess and dispose of such birds, or from Federal or State game authorities by the gift of seized, condemned, or sick or injured birds. Any such birds, acquired without a permit, and any progeny therefrom may be disposed of only to persons authorized by this paragraph to acquire such birds without a permit. Any person exercising a privilege granted by this paragraph must keep accurate records of such operations showing the species and number of birds acquired, possessed, and disposed of; the names and addresses of the persons from whom such birds were acquired or to whom such birds were donated or sold; and the dates of such transactions. These records shall be maintained on a calendar year basis and shall be retained for a period of 5 years following the end of the calendar year covered by the records.

[39 FR 1178, Jan. 4, 1974, as amended at 50 FR 8638, Mar. 4, 1985]

§ 21.13 Permit exceptions for captive-reared mallard ducks.

Captive-reared and properly marked mallard ducks, alive or dead, or their eggs may be acquired, possessed, sold, traded, donated, transported, and disposed of by any person without a permit, subject to the following conditions, restrictions, and requirements:

(a) Nothing in this section shall be construed to permit the taking of live mallard ducks or their eggs from the wild.

(b) All mallard ducks possessed in captivity, without a permit, shall have been physically marked by at least one of the following methods prior to 6 weeks of age and all such ducks hatched, reared, and retained in captivity thereafter shall be so marked prior to reaching 6 weeks of age.

(1) Removal of the hind toe from the right foot.

(2) Pinioning of a wing: *Provided*, That this method shall be the removal of the metacarpal bones of one wing or a portion of the metacarpal bones which renders the bird permanently incapable of flight.

(3) Banding of one metatarsus with a seamless metal band.

(4) Tattooing of a readily discernible number or letter or combination thereof on the web of one foot.

(c) When so marked, such live birds may be disposed of to, or acquired from, any person and possessed and transferred in any number at any time or place: *Provided*, That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age.

(d) When so marked, such live birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of mallard ducks from the wild: *Provided*, That such birds may be killed by shooting, in any number, at any time, within the confines of any premises operated as a shooting preserve under State license, permit, or authorization; or they may be shot, in any number, at any time or place, by any person for bona fide dog training or field trial purposes: *Provided further*, That the provisions of the hunting regulations (Part 20 of this subchapter) and the Migratory Bird Hunting Stamp Act (duck stamp requirement) shall not apply to shooting preserve operations, as provided for in this paragraph, or to bona fide dog training or field trial operations.

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided*, That persons, who operate game farms or shooting preserves under a State license, permit, or authorization for such activities, may remove the marked foot or wing when either the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization. When properly marked, such carcasses may be disposed of to, or acquired from, any person and possessed and transported in any number at any time or place.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981]

§ 21.14 Permit exceptions for captive-reared migratory waterfowl other than mallard ducks.

Any person may, without a permit, lawfully acquire captive-reared and properly marked migratory waterfowl of all species other than mallard ducks, alive or dead, or their eggs, and possess and transport such birds or eggs and any progeny or eggs therefrom solely for his own use subject to the following conditions and restrictions:

(a) Such birds, alive or dead, or their eggs may be lawfully acquired only from holders of valid waterfowl sale and disposal permits, unless lawfully acquired outside of the United States, except that properly marked carcasses of such birds may also be lawfully acquired as provided under paragraph (c) of this section.

(b) All progeny of such birds or eggs hatched, reared, and retained in captivity must be physically marked as defined in § 21.13(b).

(c) No such birds or eggs or any progeny or eggs thereof may be disposed of by any means, alive or dead, to any other person unless a waterfowl sale and disposal permit has first been secured authorizing such disposal: *Provided*, That bona fide clubs, hotels, restaurants, boarding houses, and dealers in meat and game may serve or sell to their customers the carcass of any such birds which they have acquired from the holder of a valid waterfowl sale and disposal permit.

(d) Lawfully possessed and properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all applicable hunting regulations governing the taking of like species from the wild. (See Part 20 of this subchapter.)

(e) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass, unless such carcasses were marked as provided in § 21.25(c)(4) and the foot or wing removed prior to acquisition.

(f) When any such birds, alive or dead, or their eggs are acquired from a waterfowl sale and disposal permittee, the permittee shall furnish a copy of Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required by § 21.25(c)(2). The buyer shall retain the Form 3-186 on file for the duration of his possession of such birds or eggs or progeny or eggs thereof.

[40 FR 28459, July 7, 1975, as amended at 46 FR 42680, Aug. 24, 1981]

Subpart C—Specific Permit Provisions

§ 21.21 [Reserved]

§ 21.22 Banding or marking permits.

(a) *Permit requirement.* A banding or marking permit is required before any person may capture migratory birds for banding or marking purposes or use official bands issued by the Service for banding or marking any migratory bird.

(b) *Application procedures.* Applications for banding or marking permits shall be submitted by letter of application addressed to the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Maryland 20810. Each such application shall contain the general information and certification set forth by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and numbers proposed to be banded or marked;

(2) Purpose of banding or marking;

(3) State or States in which authorization is requested; and

(4) Name and address of the public, scientific, or educational institution to which any specimens will be donated that are salvaged pursuant to paragraphs (c) (3) and (4) of this section.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, banding or marking permits shall be subject to the following conditions:

(1) The banding of migratory birds shall only be by official numbered leg bands issued by the Bureau. The use of any other band, clip, dye, or other method of marking is prohibited unless specifically authorized in the permit.

(2) All traps or nets used to capture migratory birds for banding or marking purposes shall have attached thereto a tag or label clearly showing the name and address of the permittee and his permit number, or the area in which such traps or nets are located must be posted with notice of banding operations posters (Form 3-1155, available upon request from the Bird Banding Laboratory, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Laurel, Md. 20810) which shall bear the name and address of the permittee and the number of his permit.

(3) The holder of a banding or marking permit may salvage, for the purpose of donating to a public scientific or educational institution, birds killed or found dead as a result of the permittee's normal banding operations, and casualties from other causes. All dead birds salvaged under authority of a migratory bird banding or marking permit must be donated and transferred to a public scientific or educational institution at least every 6 months or within 60 days of the time such permit expires or is revoked, unless the permittee has been issued a special permit authorizing possession for a longer period of time.

(4) Permittees must keep accurate records of their operations and file reports as set forth in the North American Bird Banding Manual, or supplements thereto, in accordance with instructions contained therein.

(d) *Tenure of permits.* Banding or marking permits are valid for a period of 2 years from the date of issue, unless otherwise stated on the face of the permit.

§ 21.23 Scientific collecting permits.

(a) *Permit requirement.* A scientific collecting permit is required before any person may take, transport, or possess migratory birds, their parts, nests, or eggs for scientific research or educational purposes.

(b) *Application procedures.* Applications for scientific collecting permits shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and numbers of migratory birds or their parts, nests, or eggs to be taken or acquired when it is possible to determine same in advance;

(2) Location or locations where such scientific collecting is proposed;

(3) Statement of the purpose and justification for granting such a permit, including an outline of any research project involved;

(4) Name and address of the public, scientific, or educational institution to which all specimens ultimately will be donated; and

(5) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, scientific collecting permits shall be subject to the following conditions:

(1) All specimens taken and possessed under authority of a scientific collecting permit must be donated and transferred to the public scientific, or educational institution designated in the permit application within 60 days following the date such permit expires or is revoked, unless the permittee has been issued a special purpose permit (See § 21.27) authorizing possession for a longer period of time.

(2) Unless otherwise provided on the permit, all migratory game birds taken pursuant to a scientific collecting permit during the open hunting season for such birds must be in conformance with Part 20 of this subchapter;

(3) Unless specifically stated on the permit, a scientific collecting permit does not authorize the taking of live migratory birds from the wild.

(4) In addition to any reporting requirement set forth in the permit, a report of the scientific collecting ac-

tivities conducted under authority of such permit shall be submitted to the issuing officer on or before January 10 of each calendar year following the year of issue unless a different date is stated in the permit.

(d) *Tenure of permit.* The tenure of scientific collecting permits shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue unless a different period of time is prescribed in the permit.

§ 21.24 Taxidermist permits.

(a) *Permit requirement.* A taxidermist permit is required before any person may perform taxidermy services on migratory birds or their parts, nests, or eggs for any person other than himself.

(b) *Application procedures.* Application for taxidermist permits shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification set forth by § 13.12(a) of this subchapter plus the following additional information:

(1) The address of premises where taxidermist services will be provided;

(2) A statement of the applicant's qualifications and experience as a taxidermist; and

(3) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Permit authorizations.* A permit authorizes a taxidermist to:

(1) Receive, transport, hold in custody or possession, mount or otherwise prepare, migratory birds, and their parts, nests, or eggs, and return them to another.

(2) Sell properly marked, captive reared migratory waterfowl which he has lawfully acquired and mounted. Such mounted birds may be placed on consignment for sale and may be possessed by such consignee for the purpose of sale.

(d) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, taxidermist permits shall be subject to the following conditions:

(1) Permittees must keep accurate records of operations, on a calendar year basis, showing the names and addresses of persons from and to whom migratory birds or their parts, nests, or eggs were received or delivered, the number and species of such, and the dates of receipt and delivery. In addition to the other records required by this paragraph, the permittee must maintain in his files, the original of the completed Form 3-186, Notice of Waterfowl Sale or Transfer, confirming his acquisition of captive reared, properly marked migratory waterfowl from the holder of a current waterfowl sale and disposal permit.

(2) Notwithstanding the provisions of paragraph (c) of this section, the receipt, possession, and storage by a taxidermist of any migratory game birds taken by another by hunting is not authorized unless they are tagged as required by § 20.36 of this subchapter. The required tags may be removed during the taxidermy operations but must be retained by the taxidermist with the other records required to be kept and must be reattached to the mounted specimen after mounting. The tag must then remain attached until the mounted specimen is delivered to the owner.

(e) *Tenure of permit.* The tenure of taxidermist permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

§ 21.25 Waterfowl sale and disposal permits.

(a) *Permit requirement.* A waterfowl sale and disposal permit is required before any person may lawfully sell, trade, donate, or otherwise dispose of, to another person, any species of captive-reared and properly marked migratory waterfowl or their eggs, except that such a permit is not required for such sales or disposals of captive-reared and properly marked mallard ducks or their eggs.

(b) *Application procedures.* Applications for waterfowl sale and disposal permits shall be submitted to the appropriate Special Agent in Charge (see: § 13.11(b) of this subchapter).

Each such application must contain the general information and certification required in § 13.12(a) of this subchapter, plus the following additional information:

(1) A description of the area where waterfowl are to be kept;

(2) Species and numbers of waterfowl now in possession and a statement showing from whom these were obtained;

(3) A statement indicating the method by which individual birds are marked as required by the provisions of this Part 21; and

(4) If a State permit is required by State law, a statement as to whether or not the applicant possesses such State permit, giving its number and expiration date.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, waterfowl sale and disposal permits shall be subject to the following conditions:

(1) Permittees may not take migratory waterfowl or their eggs from the wild, and may not acquire such birds or their eggs from any person not authorized by a valid permit issued pursuant to this part to dispose of such birds or their eggs.

(2) All live migratory waterfowl possessed in captivity under authority of a valid waterfowl sale and disposal permit shall have been, prior to 6 weeks of age, physically marked as defined in § 21.13(b). All offspring of such birds hatched, reared, and retained in captivity shall be so marked prior to attaining 6 weeks of age. The preceding does not apply to captive adult geese, swans, and brant which were marked previous to March 1, 1967, by a "V" notch in the web of one foot, nor to such birds held in captivity at public zoological parks, and public scientific or educational institutions.

(3) Such properly marked birds may be killed, in any number, at any time or place, by any means except shooting. Such birds may be killed by shooting only in accordance with all the applicable hunting regulations governing the taking of like species from the wild.

(4) At all times during possession, transportation, and storage until the raw carcasses of such birds are finally processed immediately prior to cooking, smoking, or canning, the marked foot or wing must remain attached to each carcass: *Provided,* That permittees who are also authorized to sell game under a State license, permit or authorization may remove the marked foot or wing from the raw carcasses if the number of his State license, permit, or authorization has first been legibly stamped in ink on the back of each carcass and on the wrapping or container in which each carcass is maintained, or each carcass is identified by a State band on leg or wing pursuant to requirements of his State license, permit, or authorization.

(5) Such properly marked birds, alive or dead, or their eggs may be disposed of in any number, at any time or place, to any person: *Provided,* That all such birds shall be physically marked prior to sale or disposal regardless of whether or not they have attained 6 weeks of age: *And provided further,* That on each date that any such birds or their eggs, are transferred to another person, the permittee must complete a Form 3-186, Notice of Waterfowl Sale or Transfer, indicating all information required by the form and the method or methods by which individual birds are marked as required by § 21.25(c)(2). (Service will provide supplies of form.) The permittee will furnish the original of completed Form 3-186 to the person acquiring the birds or eggs; retain one copy in his files as a record of his operations: attach one copy to the shipping container for the birds or eggs, or include the copy in shipping documents which accompany the shipment; and, on or before the last day of each month, mail two copies of each form completed during that month to the office of the Fish and Wildlife Service which issued his permit.

(6) Permittees shall submit an annual report within 10 days following the 31st day of December of each calendar year to the office of the Fish and Wildlife Service which issued the permit. The information provided shall give the total number of waterfowl by species in possession on that

date and the method or methods by which individual birds are marked as required by the provisions of this Part 21.

(d) *Tenure of permits.* The tenure of waterfowl sale and disposal permits or renewals thereof shall be from date of issue through the 31st day of December of the second full calendar year following the year of issue.

[40 FR 28460, July 7, 1975]

§ 21.26 [Reserved]

§ 21.27 Special purpose permits.

Subject to the discretion and policies of the Bureau, permits may be issued for migratory bird activities outside the scope of the standard form permits of this part, upon a sufficient showing of benefit to the migratory bird resource, important research reasons, humane, or other compelling justification.

(a) *Permit requirement.* A special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, nests, or eggs for any purpose not covered by the standard form permits of this part.

(b) *Application procedures.* Applications for special purpose permits shall be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A detailed statement describing the project or activity which requires issuance of a permit, purpose of such project or activity, and a delineation of the area in which it will be conducted. (Copies of supporting documents, research proposals, and any necessary State permits should accompany the application);

(2) Numbers and species of migratory birds involved where same can reasonably be determined in advance; and

(3) Statement of disposition which will be made of migratory birds involved in the permit activity.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, special purpose permits shall be subject to the following conditions:

(1) Permittees shall file with the issuing officer an annual report of operations not later than January 31 of each year for the preceding calendar year or any portion thereof during which the permit was in force, describing in detail operations under the permit, number and species of migratory birds acquired, disposed of, and an inventory of those on hand as of December 31.

(2) Permittees shall make such other reports as may be requested by the issuing officer.

(d) *Tenure of permits.* The tenure of special purpose permits shall be limited to the dates which appear on its face, but in no case shall be longer than the second full calendar year ending December 31 following the date of issue.

§ 21.28 Falconry permits.

(a) [Reserved]

(b) *Permit requirements.* A falconry permit is required before any person may take, transport, or possess raptors for falconry purposes.

(c) *Application procedures.* (1) An applicant who wishes to practice falconry in a State listed in § 21.29(k) and which has been designated as a participant in a joint Federal/State permit system must submit an application for a falconry permit to the appropriate agency of that State. Each such application must incorporate a completed official form approved by the Service and must include all of the following information:

(i) The number of raptors the applicant possesses at the time the application is submitted and the species, age (if known), sex (if known), date of acquisition, and source of each; and

(ii) Any additional information required by the State to which the application is submitted.

(2) An applicant who wishes to practice falconry in a State listed in § 21.29(k) and designated as a non-participant in a joint Federal/State permit system must submit an application for a falconry permit to the Special Agent in Charge designated by § 13.11(b) of this subchapter. Each

such application must incorporate a completed official application form provided by the Service, and must include all of the following information:

(i) The number of raptors which the applicant possesses at the time the application is submitted and the species, age (if known), sex (if known), date of acquisition, and source of each ; and

(ii) A statement as to whether the applicant has applied for a State falconry permit from a State listed in § 21.29(k) of this subchapter and the name of the State and the date and file number of any application or other correspondence.

(d) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (c) of this section, the Director will decide whether a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether such action would have a significant effect on the wild population of raptors; and

(2) Whether the Service and a State listed in § 21.29(k) of this subpart concur that the applicant has met the appropriate requirements of State and Federal law and, in the case of a State listed in § 21.29(k) as a participant in a joint Federal/State permit system, that a joint Federal/State permit should be issued or, in the case of a State listed in § 21.29(k) as a non-participant in a joint Federal/State permit system, that separate permits should be issued by each authority.

(e) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) A permittee may not take, transport, or possess a golden eagle (*Aquila chrysaetos*) unless authorized in writing under § 22.24 of this subchapter;

(2) Any permittee may—

(i) Transfer any raptor to another permittee if the transaction occurs entirely within a State and no money or other consideration is involved;

(ii) Transfer any raptor to another permittee in an interstate transaction if the prior written approval of all State agencies which issued the permits is obtained and no money or other consideration is involved in the transaction; or

(iii) Purchase, sell, or barter any lawfully possessed raptor which is bred in captivity under authority of a raptor propagation permit issued under § 21.30 and banded with a numbered seamless marker issued or authorized by the Service, subject to the following additional conditions:

(A) The person who receives any raptor by transfer, purchase, sale, or barter must be authorized to possess it under this part, or, if in a foreign country, must be authorized to receive it by the competent wildlife management authority of his/her country of residence or domicile after the competent wildlife management authority of that country has certified in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his/her possession under conditions that are comparable to the conditions under which a permittee must maintain raptors under § 21.29 or § 21.30; and

(B) The permittee who transfers, purchases, or sells, or barters any raptor must have acquired the raptor from a person authorized to possess it, and, if acquired from a person in the U.S., that person must be authorized to possess it under this part.

(3) A permittee may not take, possess, or transport a raptor in violation of the restrictions, conditions, and requirements of § 21.29 of this subpart; and

(4) By July 31 of each year, a permittee shall submit a falconry report to the authority which issued the permit. A report shall contain the following:

(i) A listing of all raptors in his possession on June 30 of the year in which the report is filed by species, marker number, sex (if known), age (if known), and date and where or from whom acquired;

(ii) A listing of all raptors possessed or acquired since the previous annual report, but no longer possessed, by species, marker number, sex (if known), age (if known), date and where or from whom acquired or given to, whether escaped, died, or released, and when the event occurred; and

(iii) Any other information required by the authority to which the report is submitted.

(f) *Duration of permits.* A permit or the renewal of a permit is valid when issued by the Service and expires on June 30 of the second calendar year after it is issued, unless a different period is specified on the permit or the renewal.

[41 FR 2238, Jan. 15, 1976, as amended at 48 FR 31608, July 8, 1983]

§ 21.29 Federal falconry standards.

(a) *General.* Under § 21.28(d) of this subpart, a falconry permit will not be issued by the Service unless there is a joint concurrence in that decision by the Service and an appropriate official of a State listed in paragraph (k) of this section. A person who has obtained a valid falconry permit issued by the Service may take, possess and transport raptors for falconry in a State only in accordance with laws and regulations of that State, and he may not violate any of the minimum Federal standards, restriction, conditions, or requirements of this section even if not adopted by the State in question.

(b) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and enforcing laws or regulations not inconsistent with the standards contained in any convention between the United States and any foreign country for the protection of raptors or with the Migratory Bird Treaty Act, and which shall give further protection to raptors.

(c) *Review and determination.* Any State may obtain a review and determination of its existing laws or regulations relating to falconry from the Director within 90 days by submitting a written request to that effect to the Director accompanied by a complete set of the laws and regulations relating to falconry, certified as complete, true, and correct by the appropriate State official, and including sample permits. In order for the Director to make a determination that State laws or regulations meet Federal falconry standards, such laws or regulations must provide as a minimum those restrictions, conditions, and requirements contained in paragraphs (d) through (j) of this section. When a determination is made that State laws or regulations meet or exceed these standards, notice will be published in the FEDERAL REGISTER and the State will be listed in paragraph (k) of this section.

(d) *Permit.* State laws or regulations shall provide that a valid State falconry permit from either that State or another State meeting Federal falconry standards and listed in paragraph (k) of this section is required before any person may take, possess, or transport a raptor for falconry purposes or practice falconry in that State.

(e) *Classes of permits.* States may have any number of classes of falconry permits provided the standards are not less restrictive than the following:

(1) *Apprentice (or equivalent) class.* (i) Permittee shall be at least 14 years old;

(ii) A sponsor who is a holder of a General or Master Falconry Permit or equivalent class is required for the first two years in which an apprentice permit is held, regardless of the age of the permittee. A sponsor may not have more than three apprentices at any one time;

(iii) Permittee shall not possess more than one raptor and may not obtain more than one raptor for replacement during any 12-month period; and

(iv) Permittee shall possess only the following raptors which must be taken from the wild: an American kestrel (*Falco sparverius*), a red-tailed hawk (*Buteo jamaicensis*), a red-shouldered hawk (*Buteo lineatus*), or, in Alaska only, a goshawk (*Accipiter gentilis*).

(2) General (or equivalent) class. (i) A permittee shall be at least 18 years old;

(ii) A permittee shall have at least two years experience in the practice of falconry at the apprentice level or its equivalent;

(iii) A permittee may not possess more than two raptors and may not obtain more than two raptors for replacement birds during any 12-month period; and

(iv) A permittee may not take, transport, or possess any golden eagle or any species listed as threatened or endangered in Part 17 of this subchapter.

(3) *Master (or equivalent) class.* (i) An applicant shall have at least five years experience in the practice of falconry at the general class level or its equivalent.

(ii) A permittee may not possess more than three raptors and may not obtain more than two raptors taken from the wild for replacement birds during any 12-month period;

(iii) A permittee may not take any species listed as endangered in Part 17 of this chapter, but may transport or possess such species in accordance with Part 17 of this chapter.

(iv) A permittee may not take, transport, or possess any golden eagle for falconry purposes unless authorized in writing under § 22.24 of this subchapter;

(v) A permittee may not take, in any twelve (12) month period, as part of the three-bird limitation, more than one raptor listed as threatened in Part 17 of this chapter, and then only in accordance with Part 17 of this chapter.

(f) *Examination.* State laws or regulations shall provide that before any State falconry permit is issued the applicant shall be required to answer correctly at least 80 percent of the questions on a supervised examination provided or approved by the Service and administered by the State, relating to basic biology, care, and handling of raptors, literature, laws, regulations or other appropriate subject matter.

(g) *Facilities and equipment.* State laws or regulations shall provide that before a State falconry permit is issued the applicant's raptor housing facilities and falconry equipment shall be inspected and certified by a representative of the State wildlife department as meeting the following standards:

(1) *Facilities.* The primary consideration for raptor housing facilities whether indoors (mews) or outdoors (weathering area) is protection from the environment, predators, or undue disturbance. The applicant shall have the following facilities, except that depending upon climatic conditions, the issuing authority may require only one of the facilities described below.

(i) Indoor facilities (mews) shall be large enough to allow easy access for caring for the raptors housed in the facility. If more than one raptor is to be kept in the mews, the raptors shall be tethered or separated by partitions and the area for each bird shall be large enough to allow the bird to fully extend its wings. There shall be at least one window, protected on the inside by vertical bars, spaced narrower than the width of the bird's body, and a secure door that can be easily closed. The floor of the mews shall permit easy cleaning and shall be well drained. Adequate perches shall be provided.

(ii) Outdoor facilities (weathering area) shall be fenced and covered with netting or wire, or roofed to protect the birds from disturbance and attack by predators except that perches more than 6½ feet high need not be covered or roofed. The enclosed area shall be large enough to insure the birds cannot strike the fence when flying from the perch. Protection from excessive sun, wind, and inclement weather shall be provided for each bird. Adequate perches shall be provided.

(2) *Equipment.* The following items shall be in the possession of the applicant before he can obtain a permit or license:

(i) Jesses—At least 1 pair of Alymeri jesses or similar type constructed of pliable, high-quality leather or suitable synthetic material to be used when any raptor is flown free. (Traditional 1-piece jesses may be used on raptors when not being flown.);

(ii) Leashes and swivels—At least 1 flexible, weather-resistant leash and 1 strong swivel of acceptable falconry design;

(iii) Bath container—At least 1 suitable container, 2 to 6 inches deep and wider than the length of the raptor, for drinking and bathing for each raptor;

(iv) Outdoor perches—At least 1 weathering area perch of an acceptable design shall be provided for each raptor; and

(v) Weighing device—A reliable scale or balance suitable for weighing the raptor(s) held and graduated to increments of not more than ½ ounce (15 gram) shall be provided.

(3) *Maintenance.* All facilities and equipment shall be kept at or above the preceding standards at all times.

(4) *Transportation; temporary holding.* A raptor may be transported or held in temporary facilities which shall be provided with an adequate perch and protected from extreme temperatures and excessive disturbance, for a period not to exceed 30 days.

(h) *Marking.* (1) State laws or regulations shall provide that an inventory and description of all raptors held within that State, except those held for scientific or zoological purposes, shall be made and reported to that State within 90 days of the date when that State is listed in paragraph (k) of this section. This paragraph applies to all such raptors, whether or not the owner intends to submit an application for a falconry permit.

(2) State laws or regulations shall provide that no raptor may be acquired after the date when that State is listed in paragraph (k) of this section unless the person acquiring the raptor first obtains a numbered, nonreusable marker supplied by the Service, and attaches it to the raptor immediately upon acquisition.

(3) State laws or regulations shall also provide that the alteration, counterfeiting or defacing of a marker is prohibited except that permittees may remove the rear tab on markers and may smooth any imperfect surface provided the integrity of the marker and numbering are not affected.

(i) *Taking restrictions.* State laws or regulations shall provide the following restrictions on the taking of raptors from the wild:

(1) Young birds not yet capable of flight (eyasses) may only be taken by a General or Master Falconer during the period specified by the State and no more than two eyasses may be taken by the same permittee during the specified period.

(2) First-year (passage) birds may be taken only during the period specified by the State;

(3) In no case shall the total of all periods of taking of eyasses or passage birds exceed 180 days during a calendar year, except that a marked raptor may be retrapped at any time; and

(4) Only American kestrels (*Falco sparverius*) and great-horned owls (*Bubo virginianus*) may be taken when over one year old, except that any raptor other than endangered or threatened species taken under a depredation (or special purpose) permit may be used for falconry by General and Master falconers.

(j) *Other restrictions.* State laws or regulations shall provide the following restrictions or conditions:

(1) A person who possesses a lawfully acquired raptor before the enactment of these regulations and who fails to meet the permit requirements shall be allowed to retain the raptors. All such birds shall be identified with markers supplied by the Service and cannot be replaced if death, loss, release, or escape occurs.

(2) A person who possesses raptors before the enactment of these regulations, in excess of the number allowed under his class permit, shall be allowed to retain the extra raptors. All such birds shall be identified with markers supplied by the Service and no replacement can occur, nor may an additional raptor be obtained, until the number in possession is at least one less than the total number authorized by the class of permit held by the permittee.

(3) A falconry permit holder shall obtain written authorization from the appropriate State wildlife department before any species not indigenous to that State is intentionally released to the wild, at which time the marker from the released bird shall be removed and surrendered to the State wildlife department. The marker from an intentionally released bird which is indigenous to that State shall also be removed and surrendered to the State wildlife department. A standard Federal bird band shall be attached to such birds by the State or Service-authorized Federal bird bander whenever possible.

(4) Another person may care for the birds of a permittee if written authorization from the permittee accompanies the birds when they are transferred: *Provided,* That if the period of care will exceed thirty (30) days, the appropriate State wildlife department shall be informed in writing by the

permittee of this action within three (3) days of the transfer and informed where the birds are being held, the reason for the transfer, who is caring for them, and approximately how many days they will be in the care of the second person; and

(5) Feathers that are molted or those feathers from birds held in captivity that die, may be retained and exchanged by permittees only for imping purposes.

(k) *States Meeting Federal Falconry Standards.* In accordance with this section, the Director has determined that the following States meet or exceed the minimum Federal standards for regulating the taking, possession, and transportation of raptors for the purpose of falconry as set forth herein.

*Alabama
*Alaska
*Arizona
*Arkansas
*California
*Colorado
*Florida
*Georgia
*Idaho
*Illinois
*Indiana
*Iowa
*Kentucky
*Louisiana
*Maine
*Massachusetts
*Maryland
*Michigan
*Minnesota
*Mississippi
*Missouri
*Montana
*Nebraska
*Nevada
*New Jersey
*New Mexico
*New York
*North Dakota
*North Carolina
*Ohio
*Oklahoma
*Oregon
*Pennsylvania
*South Carolina
*South Dakota
*Tennessee
*Texas
*Utah
*Virginia
*Washington
*Wisconsin
*Wyoming

[NOTE: States which are participants in a joint Federal/State permit system will be designated by an asterisk.]

[41 FR 2238, Jan. 15, 1976; 41 FR 8053, Feb. 24, 1976, as amended at 42 FR 42353, Aug. 23, 1977; 43 FR 968, Jan. 5, 1978; 43 FR 10566, Mar. 14, 1978; 43 FR 34150, Aug. 3, 1978; 43 FR 57606, Dec. 8, 1978; 45 FR 25066, Apr. 14, 1980; 45 FR 70276, Oct. 23, 1980; 48 FR 31608, July 8, 1983; 48 FR 42820, Sept. 20, 1983]

§ 21.30 Raptor propagation permits.

(a) *Permit requirement.* A raptor propagation permit is required before any person may take, possess, transport, sell, purchase, barter, or transfer any raptor, raptor egg or raptor semen for propagation purposes. The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to the criteria established in this section for the issuance or denial of such permits. The obligation to respond is required to obtain or retain a permit.

(b) *Application procedures.* Applications for raptor propagation permits must be submitted to the appropriate Special Agent in Charge (See § 13.11(b) of this chapter). Each application must contain the general information and certification required by § 13.12(a) of this chapter, plus the following additional information:

(1) A statement indicating the purpose(s) for which a raptor propagation permit is sought and, where applicable, the scientific or educational objectives of the applicant;

(2) A statement indicating whether the applicant has been issued a State permit authorizing raptor propagation (include name of State, permit number, and expiration date);

(3) A statement fully describing the nature and extent of the applicant's experience with raptor propagation or handling raptors;

(4) A description of each raptor the applicant possesses or will acquire for propagation purposes to include the species, age (if known), sex (if known), date of acquisition, source, and raptor marker number;

(5) A description of each raptor the applicant possesses for purposes other than raptor propagation to include the species, age (if known), sex (if known), date of acquisition, source, raptor marker number, and purpose for which it is possessed;

(6) A description and photographs of the facilities and equipment to be used by the applicant including the dimensions of any structures intended for housing the birds;

(7) A statement indicating whether the applicant requests authority to

take raptors or raptor eggs from the wild.

(c) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (b) of this section, the Director will decide whether a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, the following factors:

(1) Whether an applicant's raptor propagation facilities are adequate for the number and species of raptors to be held under the permit.

(2) Whether propagation is authorized by the State in which the propagation will occur, and if authorized, whether the applicant has any required State propagation permit.

(3) Whether the applicant is at least 18 years old with a minimum of 2 years experience handling raptors, and if the applicant requests authority to propagate endangered or threatened species, whether the applicant is at least 23 years old with a minimum of 7 years experience handling raptors.

(4) If the applicant requests authority to take raptors or raptor eggs from the wild:

(i) Whether issuance of the permit would have a significant effect on any wild population of raptors;

(ii) Whether suitable captive stock is available; and

(iii) Whether wild stock is needed to enhance the genetic variability of captive stock.

(d) *Additional permit conditions.* In addition to the general conditions found in Part 13 of this chapter, raptor propagation permits are subject to the following additional conditions:

(1) *Facilities.* Any tethered raptor possessed under this permit must be maintained in accordance with the Federal falconry standards for "facilities and equipment" described in § 21.29(g), unless a specific exception in writing is obtained. For untethered raptors, the breeding facilities must be soundly constructed and entirely enclosed with wood, wire netting, or other suitable material which provides a safe, health, environment. The design of such facilities and ancillary equipment must:

(i) Minimize the risk of injury by providing protection from predators, disturbances that would likely cause harm, extreme weather conditions, and collision with interior or perimeter construction materials and equipment such as support poles, windows, wire netting, perches, or lights;

(ii) Enhance sanitation by providing a well-drained floor, fresh air ventilation, source of light, fresh water for bathing and drinking, access for cleaning, and interior construction materials suitable for thorough cleaning or disinfection; and

(iii) Enhance the welfare and breeding success of the raptors by providing suitable perches, nesting and feeding sites, and observation ports or inspection windows during times when disturbance is felt to be undesirable.

(2) *Incubation of eggs.* Each permittee must notify the Director in writing within 5 days from the day the first egg is laid by any raptor held under a raptor propagation permit, but notice is not required more often than once every 60 days.

(3) *Marking requirement.* Every raptor possessed under this permit must be banded with a numbered, nonreusable marker provided by the Service or with a marker provided by the competent wildlife management authority of a foreign country that meets the following Service marking standards:

(i) Any raptor taken from the wild or hatched from an egg taken from the wild must be banded with a black, adjustable marker.

(ii) Any captive-bred raptor must be banded by 2 weeks of age with either a yellow adjustable marker or a numbered seamless marker.

(iii) Any permittee who wants to use a numbered seamless marker provided by the Service:

(A) Must place the marker on the raptor's leg (*metatarsus*) before full growth is attained;

(B) Must use a marker with an opening (inside diameter) which is small enough to prevent its removal when the raptor is fully grown without causing serious injury to the raptor or damaging the marker's integrity or one-piece construction;

(C) May band a raptor with more than one size marker when the potential diameter of the raptor's leg at maturity cannot be determined at the time of banding; and

(D) Must remove all but one marker from any raptor with more than one marker before the raptor is 5 weeks of age and immediately return each marker that is removed to the Director.

(iv) Each permittee must submit a report of marking to the Director within 5 days of such activity, including a report when all excess markers are removed from any raptor. The report must be signed by the permittee and contain the date of marking; marker number(s); and the species, sex and hatching date of the raptor.

(4) *Taking Raptors or Raptor Eggs from the Wild.* Any permit authorizing the permittee to take raptors or raptor eggs from the wild for propagation purposes is subject to the following additional restrictions:

(i) The State in which the raptors or raptor eggs are taken must authorize the permittee in writing to take raptors or raptor eggs from the wild for propagation purposes; and

(ii) No raptor listed in § 17.11 of this chapter as "endangered" or "threatened" may be taken from the wild without first obtaining the proper permit under Part 17 of this chapter.

(5) *Transfer, purchase, sale, or barter of raptors, raptor eggs, or raptor semen.* (i) A permittee may transfer any lawfully possessed raptor, raptor egg, or raptor semen to another permittee or transfer any raptor to a falconer who holds a valid State falconry permit if no money or other consideration is involved.

(ii) A permittee may transfer, purchase, sell, or barter any raptor which is banded with a numbered seamless marker provided or authorized by the Service, subject to the following conditions:

(A) When the permittee purchases from, sells to, or barters with any person in the U.S., that person must be authorized under this part to purchase, sell, or barter captive-bred raptors;

(B) When the permittee purchases from or barters with any person in a foreign country, that person must be authorized by the competent wildlife management authority of the foreign country in which the transaction occurs to sell or barter captive-bred raptors; and

(C) When the permittee transfers to, sells to or barters with any person in a foreign country, that person must be authorized to possess, purchase or barter captive-bred raptors by the competent wildlife management authority of his/her country of residence or domicile and the same wildlife management authority must certify in writing that the recipient is an experienced falconer or raptor propagator who is required to maintain any raptors in his/her possession under conditions that are comparable to the conditions under which a permittee must maintain raptors under § 21.29 or § 21.30. No certification is required if the competent wildlife management authority itself is the recipient of captive-bred raptors for conservation purposes.

(iii) No raptor may be traded, transferred, purchased, sold, or bartered until it is two weeks old and only after it is properly banded with a nonreuseable marker provided or authorized by the Service, unless it is transferred, sold, or bartered to a State or Federal wildlife management agency for conservation purposes.

(iv) A permittee may purchase, sell, or barter semen collected from any captive-bred raptor.

(v) A permittee may not purchase, sell or barter any raptor eggs, any raptors taken from the wild, any raptor semen collected from the wild, or any raptors hatched from eggs taken from the wild.

(6) *Use in falconry.* Permittees may use a raptor possessed for propagation in the sport of falconry only if such use is designated in both the propagation permit and the permittee's State falconry permit.

(7) *Interspecific hybridization.* Hybridization between species (interspecific hybridization) is authorized only if each raptor produced by interspecific hybridization is either imprinted on humans (hand-raised in isolation from the sight of other raptors from

two weeks of age until it is fully feathered) or surgically sterilized.

(8) *Possession of dead raptors, nonviable eggs, nests, and feathers.* (i) Upon the death of any raptor held under permit, a permittee must remove the marker and immediately return it to the Director. The carcass must be destroyed immediately, unless the permittee requests authorization from the Director to retain possession of it. A permittee who has obtained written authorization from the Director to retain possession of the carcass may transfer it to any other person authorized by the Service to possess it, provided no money or other consideration is involved.

(ii) A permittee may possess addled or blown eggs, nests, and feathers from raptors held under permit and may transfer any of these items to any other person authorized by the Service to possess them provided no money or other consideration is involved.

(9) *Intentional release to the wild.* (i) A permittee must obtain written authorization from the Director before intentionally releasing any raptor to the wild. The raptor marker must be removed from each bird and immediately returned to the Director. A Federal bird band must be attached to each raptor by a person designated by the Director before its release.

(ii) No raptor produced by interspecific hybridization may be intentionally released to the wild.

(10) *Recordkeeping.* A permittee must maintain complete and accurate records of all operations, to include the following:

(i) Acquisition of raptors, eggs, or semen from sources other than production.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) How acquired:

(*1*) Purchase, barter, or transfer (include the purchase price or a description of any other consideration involved), or

(*2*) Taken from the wild.

(D) Date acquired: month, day, and year.

(E) From whom or where stock acquired:

(*1*) Name, address, and permit number of seller, barterer, or transferor; or

(*2*) Location where stock taken from the wild.

(ii) Disposition of raptors, eggs, or semen.

(A) Description of stock:

(*1*) Species, sex, age of each (if applicable),

(*2*) Genotype-natal area (geographical breeding site or area that captive stock represents, e.g., Colville River, Alaska; unknown; migrant taken in Maryland, etc.), and

(*3*) Marker number (if applicable).

(B) Type of stock (including number or amount):

(*1*) Semen,

(*2*) Egg, or

(*3*) Bird.

(C) Manner of disposition:

(*1*) Sale, barter, or transfer (include the sale price or a description of any other consideration involved),

(*2*) Live loss,

(*3*) Intentional release to the wild, or

(*4*) Death.

(D) Date of disposition: month, day, and year.

(E) To whom or where stock disposed:

(*1*) Name, address, and permit number of purchaser, barterer, or transferee, or

(*2*) Description and location of other disposition.

(iii) Production and pedigree record.

(A) Mother and father(s):

(*1*) Species,

(*2*) Genotype-natal area, and

(*3*) Marker number.

(B) Insemination:

(*1*) Natural,

(*2*) Artificial, or

(*3*) Combined.

(C) Eggs laid:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(D) Eggs hatched:

(*1*) Total,

(*2*) First date, and

(*3*) Last date.

(E) Young raised to 2 weeks of age:

(*1*) Total produced, and

(*2*) Marker number and date marked for each raptor.

(11) *Annual report.* A permittee must submit an annual report by January 31 of each year for the preceding year to the Director. The report must include the following information for each species possessed by the permittee:

(i) Number of raptors possessed as of December 31 (including the species, marker number, sex, and age of each raptor).

(ii) Number of females laying eggs.

(iii) Number of eggs laid.

(iv) Number of eggs hatched.

(v) Number of young raised to 2 weeks of age.

(vi) Number of raptors purchased, sold, bartered, received, or transferred (including the species, marker number, sex, and age of each raptor) the date of the transaction, and the name, address and permit number of each purchaser, seller, barterer, transferor, or transferee.

(e) *Tenure of permit.* The tenure of raptor propagation permits is 5 years from the date of issuance, unless a shorter period of time is prescribed in the permit.

[48 FR 31608, July 8, 1983, as amended at 49 FR 9736, Mar. 15, 1984]

Subpart D—Control of Depredating Birds

§ 21.41 Depredation permits.

(a) *Permit requirement.* Except as provided in §§ 21.42 through 21.46, a depredation permit is required before any person may take, possess, or transport migratory birds for depredation control purposes. No permit is required merely to scare or herd depredating migratory birds other than endangered or threatened species or bald or golden eagles.

(b) *Applicant procedures.* Applications for depredation permits shall be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A description of the area where depredations are occurring;

(2) The nature of the crops or other interests being injured;

(3) The extent of such injury; and

(4) The particular species of migratory birds committing the injury.

(c) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, depredation permits shall be subject to requires, in this section:

(1) Permittees may not kill migratory birds unless specifically authorized on the permit.

(2) Unless otherwise specifically authorized, when permittees are authorized to kill migratory birds they may do so only with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or area described on the permit.

(3) Permittees may not use blinds, pits, or other means of concealment, decoys, duck calls, or other devices to lure or entice birds within gun range.

(4) All migratory birds killed shall be retrieved by the permittee and turned over to a Bureau representative or his designee for disposition to charitable or other worthy institutions for use as food, or otherwise disposed of as provided by law.

(5) Only persons named on the permit are authorized to act as agents of the permittee under authority of the permit.

(d) *Tenure of permits.* The tenure of depredation permits shall be limited to the dates which appear on its face, but in no case shall be longer than one year.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977]

§ 21.42 Authority to issue depredating orders to permit the killing of migratory game birds.

Upon the receipt of evidence clearly showing that migratory game birds have accumulated in such numbers in a particular area as to cause or about to cause serious damage to agricultural, horticultural, and fish cultural interests, the Director is authorized to issue by publication in the FEDERAL REGISTER a depredation order to permit the killing of such birds under the following conditions:

(a) That such birds may only be killed by shooting with a shotgun not larger than No. 10 gauge fired from the shoulder, and only on or over the threatened area or areas;

(b) That shooting shall be limited to such time as may be fixed by the Director on the basis of all circumstances involved. If prior to termination of the period fixed for such shooting, the Director receives information that there no longer exists a serious threat to the area or areas involved, he shall without delay cause to be published in the FEDERAL REGISTER an order of revocation;

(c) That such migratory birds as are killed under the provisions of any depredation order may be used for food or donated to public museums or public scientific and educational institutions for exhibition, scientific, or educational purposes, but shall not be sold, offered for sale, bartered, or shipped for purpose of sale or barter, or be wantonly wasted or destroyed: *Provided*, That any migratory game birds which cannot be so utilized shall be disposed of as prescribed by the Director;

(d) That any order issued pursuant to this section shall not authorize the killing of the designated species of depredating birds contrary to any State laws or regulations. The order shall specify that it is issued as an emergency measure designed to relieve depredations only and shall not be construed as opening, reopening, or extending any open hunting season contrary to any regulations promulgated pursuant to section 3 of the Migratory Bird Treaty Act.

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows and magpies.

A Federal permit shall not be required to control yellow-headed red-winged, bi-colored red-winged, tri-colored red-winged, Rusty and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided:*

(a) That none of the birds killed pursuant to this section, nor their plumage, shall be sold or offered for sale, but may be possessed, transported, and otherwise disposed of or utilized.

(b) That any person exercising any of the privileges granted by this section shall permit at all reasonable times including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(c) That nothing in this section shall be construed to authorize the killing of such birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State concerned.

[39 FR 1178, Jan. 4, 1974, as amended at 42 FR 17122, Mar. 31, 1977]

§ 21.44 Depredation order for designated species of depredating birds in California.

In any county in California in which meadowlarks, horned larks, golden-crowned, white-crowned, and other crowned sparrows, goldfinches, house finches, acorn woodpeckers, Lewis woodpeckers, and flickers are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his general supervision such of the above migratory birds as may be necessary to safeguard any agricultural or horticultural crop in the county: *Provided:*

(a) That such migratory birds shall be killed only when necessary to protect agricultural or horticultural crops from depredation; that none of the above migratory birds killed, or the parts thereof, or the plumage of such birds, shall be sold or removed from the area where killed; but that all such dead migratory birds shall be buried or otherwise destroyed within this area, except that any specimens needed for scientific purposes, as determined by the State or the Director shall not be destroyed.

(b) That any Commissioner of Agriculture exercising the privileges granted by this section shall keep records of the persons authorized by the Commissioner to kill such migratory birds, and the estimated number of such birds killed pursuant to the exercise of his authority, and the Commissioner shall submit a report thereof to the Director on or before December 31 of each year or whenever the Director so requests.

§ 21.45 Depredation order for depredating purple gallinules in Louisiana.

Landowners, sharecroppers, tenants, or their employees or agents, actually engaged in the production of rice in Louisiana, may, without a permit, shoot purple gallinules (*Ionornis martinica*) when found committing or about to commit serious depredations to growing rice crops on the premises owned or occupied by such persons: *Provided:*

(a) That purple gallinules may only be killed pursuant to this section between May 1 and August 15 in any year.

(b) That purple gallinules killed pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted: *Provided,* That the Director or the State agricultural department, college, or other public institution may requisition such purple gallinules killed as may be needed for scientific investigations: *Provided further,* That any purple gallinules killed under authority of this section may also be donated to charitable institutions for food purposes.

(c) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(d) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the State of Louisiana.

(e) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the Director.

§ 21.46 Depredation order for depredating scrub jays and Steller's jays in Washington and Oregon.

Landowners, sharecroppers, tenants, or their employees or agents actually engaged in the production of nut crops in Washington and Oregon may, without a permit, take scrub jays (*Aphelocoma coerulescens*) and Steller's jays (*Cyanocitta stelleri*) when found committing or about to commit serious depredations to nut crops on the premises owned or occupied by such persons: *Provided:*

(a) That scrub jays and Steller's jays may only be taken pursuant to this section between August 1 and December 1 in any year, in the Washington counties of Clark, Cowlitz, and Lewis; and the Oregon counties of Benton, Clackamas, Lane, Linn, Marion, Multnomah, Polk, Washington, and Yamhill.

(b) That scrub jays and Steller's jays taken pursuant to this section shall not be transported or sold or offered for sale except that, such transportation within the area, as may be necessary to bury or otherwise destroy the carcasses of such birds is permitted:

Provided, That the Director of the State agricultural department, college, or other public institution may requisition such scrub jays and Steller's jays killed as may be needed for scientific investigations.

(c) That such birds may be taken only by trapping or shooting and on areas where serious depredations are being or are about to be committed.

(d) That any person exercising any of the privileges granted by this section shall permit at all reasonable times, including during actual operations, any Federal or State game or deputy game agent, warden, protector, or other law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require, concerning said operations.

(e) That nothing in this section shall be construed to authorize the killing of such migratory birds contrary to any State laws or regulations; and that none of the privileges granted under this section shall be exercised unless the person possesses whatever permit as may be required for such activities by the States of Washington and Oregon.

(f) That any person authorized by this section to exercise the privileges granted therein shall maintain records of the number of birds killed on the premises and shall submit a report thereof, on or before December 31 of each year, to the appropriate Special Agent in Charge (see § 10.22 of this subchapter).

[39 FR 31326, Aug. 28, 1974]

PART 22—EAGLE PERMITS

Subpart A—Introduction

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22.2 Scope of regulations.
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22.23 Permits to take depredating eagles.
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Subpart D—Depredation Control Orders on Golden Eagles

22.31 Golden eagle depredations control order on request of Governor of a State.
22.32 Conditions and limitations on taking under depredation control order.

AUTHORITY: Sec. 2, Eagle Protection Act of June 8, 1940, Chapter 278, 54 Stat. 251; Pub. L. 87-884, 76 Stat. 1246; sec. 2, Pub. L. 92-535, 86 Stat. 1065; sec. 9, Pub. L. 95-616, 92 Stat. 3114 (16 U.S.C. 668a).

SOURCE: 39 FR 1183, Jan. 4, 1974, unless otherwise noted.

Subpart A—Introduction

§ 22.1 Purpose of regulations.

The regulations contained in this part govern the taking, possession, and transportation of bald and golden eagles for scientific, educational, and depredations control purposes and for the religious purposes of Indian tribes. The import, export, purchase, sale, or barter of bald or golden eagles, their parts, nests, or eggs is not permitted by any regulation of this Subchapter B.

§ 22.2 Scope of regulations.

(a) Bald eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to June 8, 1940, and golden eagles, alive or dead, or their parts, nests, or eggs lawfully acquired prior to October 24, 1962, may be possessed, or transported without a Federal permit, but may not be imported, exported, purchased, sold, traded, bartered, or offered for purchase, sale, trade or barter; and all shipments containing such birds, parts, nests, or eggs must be marked as provided by 18 U.S.C. 44 and § 14.81 of this subchapter: *Provided*, That no exemption from any statute or regulation shall accrue to any offspring of such birds.

(b) The provisions in this part are in addition to, and are not in lieu of, other regulations of this Subchapter B which may require a permit or prescribe additional restrictions or conditions for the importation, exportation, and interstate transportation of wildlife (see also Part 13 of this subchapter).

§ 22.3 Definitions.

In addition to definitions contained in Part 10 of this subchapter, and unless the context otherwise requires, in this Part 22:

"Area nesting population" means the number of pairs of golden eagles known to have a resting attempt during the preceding 12 months within a 10-mile radius of a golden eagle nest.

"Golden eagle nest" means any readily identifiable structure built, maintained or occupied by golden eagles for propagation purposes.

"Inactive nest" means a golden eagle nest that is not currently used by golden eagles as determined by the absence of any adult, egg, or dependent young at the nest during the 10 days before the nest is taken.

"Nesting attempt" means any activity by golden eagles involving egg laying and incubation as determined by the presence of an egg attended by an adult, an adult in incubation posture, or other evidence indicating recent use of a golden eagle nest for incubation of eggs or rearing of young.

"Person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of any State or political subdivision of a State.

"Resource development or recovery" includes, but is not limited to, mining, timbering, extracting oil, natural gas and geothermal energy, construction of roads, dams, reservoirs, power plants, power transmission lines, and pipelines, as well as facilities and access routes essential to these operations, and reclamation following any of these operations.

"Take" includes also pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, or molest or disturb.

[39 FR 1183, Jan. 4, 1974, as amended at 48 FR 57300, Dec. 29, 1983]

Subpart B—General Requirements

§ 22.11 General permit requirements.

No person shall take, possess, or transport any bald eagle (*Haliaeetus leucocephalus*) or any golden eagle (*Aquilachrysaetos*), or the parts, nests, or eggs of such birds except as may be permitted under the terms of a valid permit issued pursuant to the provisions of this part and Part 13 and under § 21.22 (banding or marking permits), or under a depredation order issued under Subpart D of this part.

§ 22.12 General restrictions.

No person shall sell, purchase, barter, trade, or offer for sale, purchase, barter, or trade, export or import, at any time or in any manner, any bald eagle (*Haliaeetusleu cocephalus*), or any golden eagle (*Aquila chrysaetos*), or the parts, nests, or eggs of such birds, and no permit will be issued to authorize such acts.

Subpart C—Eagle Permits

§ 22.21 Permits for scientific or exhibition purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing taking, possession, or transportation of bald eagles or golden eagles, or their parts, nests, or eggs for the scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(a) *Application procedure.* Applications for permits to take, possess, or transport bald or golden eagles, their parts, nests or eggs for scientific or exhibition purposes shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following information:

(1) Species of eagle and number of such birds, nests, or eggs proposed to be taken, possessed, or transported;

(2) Specific locality in which taking is proposed, if any;

(3) Method taking proposed, if any;

(4) If not taken, the source of eagles and other circumstances surrounding the proposed acquisition or transportation;

(5) Name and address of the public museum, public scientific societies, or public zoological park for which they are intended;

(6) Complete explanation and justification of request, nature of project or study, number of specimens now at institution, reason these are inadequate, and other appropriate explanations.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take, possess, or transport bald or golden eagles for scientific or exhibition purposes, shall be subject to the following condition: In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 30 days after expiration of the permit.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, or transport bald or golden eagles for scientific or exhibition purposes unless he has determined that such taking, possession, or transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald and golden eagles;

(2) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application;

(3) Whether the justification of the purpose for which the permit is being requested is adequate to justify the removal of the eagle from the wild or otherwise change its status; and

(4) Whether the applicant has demonstrated that the permit is being requested for *bona fide* scientific or exhibition purposes of public museums, public scientific societies, or public zoological parks.

(d) *Tenure of permits.* The tenure of permits to take bald or golden eagles for scientific or exhibition purposes shall be that shown on the face of the permit.

§ 22.22 Permits for Indian religious purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking, possession, and transportation of bald or golden eagles, or their parts, nests, or eggs for the religious use of Indians.

(a) *Application procedure.* Applications for permits to take, possess, and transport bald or golden eagles, their parts, nests, or eggs for the religious use of Indians shall be submitted to the appropriate Special Agent in Charge (See: § 13.11(b) of this subchapter). Only applications from individual Indians will be accepted. Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and number of eagles or feathers proposed to be taken, or acquired by gift or inheritance.

(2) State and local area where the taking is proposed to be done, or from whom acquired.

(3) Name of tribe with which applicant is associated.

(4) Name of tribal religious ceremony(ies) for which required.

(5) Applicant must attach a certification from the Bureau of Indian Affairs that the applicant is an Indian.

(6) Applicant must attach a certification from a duly authorized official of the religious group that the applicant is authorized to participate in such ceremonies.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians shall be subject to the following conditions:

(1) Bald or golden eagles or their parts possessed under permits issued pursuant to this section are not trans-

ferable, except such birds or their parts may be handed down from generation to generation or from one Indian to another in accordance with tribal or religious customs; and

(2) Permittees shall make such reports or submit inventories of eagle feathers or parts on hand as may be requested by the Special Agent in Charge.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take, possess, and transport bald or golden eagles, their parts, nests or eggs, for the religious use of Indians unless he has determined that such taking, possession, and transportation is compatible with the preservation of the bald or golden eagle. In making such determination, the Director shall consider, among other criteria, the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild populations of bald or golden eagles; and

(2) Whether the applicant is an Indian who is authorized to participate in *bona fide* tribal religious ceremonies.

(d) *Tenure of permits.* Any permit issued pursuant to this section under which the applicant is authorized to take eagles shall be valid during the period specified on the face thereof which shall in no case be longer than 1 year from date of issue. Any permit issued pursuant to this part which authorizes the permittee to transport and possess eagles or their parts shall be valid for the life of the permittee unless sooner revoked.

§ 22.23 Permits to take depredating eagles.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the taking of depredating bald or golden eagles.

(a) *Application procedure.* Applications for permits to take depredating bald or golden eagles shall be submitted to the appropriate Special Agent in Charge (Sec: § 13.11(b) of this subchapter). Each such application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) Species and number of eagles proposed to be taken;

(2) Location and description of property where taking is proposed;

(3) Inclusive dates for which permit is requested;

(4) Method of taking proposed;

(5) Kind and number of livestock or domestic animals owned by applicant;

(6) Kind and amount of alleged damaged; and

(7) Name, address, age, and business relationship with applicant of any person the applicant proposes to act for him as his agent in the taking of such eagles.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to take depredating bald or golden eagles shall be subject to the following conditions:

(1) Bald or golden eagles may be taken under permit by firearms, traps, or other suitable means except by poison or from aircraft;

(2) The taking of eagles under permit may be done only by the permittee or his agents named in the permit;

(3) Any eagle taken under authority of such permit will be promptly turned over to a Service agent or other game law enforcement officer designated in the permit; and

(4) In addition to any reporting requirement set forth in the permit, the permittee shall submit a report of activities conducted under the permit to the Special Agent in Charge within 10 days following completion of the taking operations or the expiration of the permit whichever occurs first.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take depredating bald or golden eagles unless he has determined that such taking is compatible with the preservation of the bald or golden eagle. In making such determination the Director shall consider the following:

(1) The direct or indirect effect which issuing such permit would be likely to have upon the wild population of bald or golden eagles;

(2) Whether there is evidence to show that bald or golden eagles have in fact become seriously injurious to

wildlife or to agriculture or other interests in the particular locality to be covered by the permit, and the injury complained of is substantial; and

(3) Whether the only way to abate the damage caused by the bald or golden eagle is to take some or all of the offending birds.

(d) *Tenure of permits.* The tenure of any permit to take bald or golden eagles for depredation control purposes shall be that shown on the face thereof, and shall in no case be longer than 90 days from date of issue.

§ 22.24 Permits for falconry purposes.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing the possession and transportation of golden eagles for falconry purposes.

(a) *Application procedure.* Applications for permits to possess and transport golden eagles for falconry purposes shall be submitted to the appropriate special agent in charge (see § 13.11(b) of this subchapter). Each application must contain the general information and certification required by § 13.12(a) of this subchapter plus the following additional information:

(1) A copy of the applicant's master (or equivalent) class permit issued in accordance with 50 CFR 21.28.

(2) A statement of the applicant's experience in handling large raptors, including the species, type of experience and duration of the activity in which the experience was acquired.

(3) At least two (2) letters of reference from individuals with recognized experience in handling and/or flying eagles. Each letter must contain a concise history of the author's experience with eagles. Eagle handling experience is defined as, but is not limited to, the handling of pre-Act birds, zoological specimens, rehabilitating eagles, or scientific studies involving eagles. Each letter must also assess the applicant's capability to properly care for the fly golden eagles in falconry, and recommend the issuance or denial of the permit.

(4) A description of the facilities in which golden eagles will be housed.

(5) If requesting an eagle(s) from the Service, applicants must specify the sex, age and condition of the eagle(s) they will accept.

(6) For eagles already legally possessed, a copy of the permit or other documentation authorizing possession of said birds, and the procedures to be used to minimize or eliminate hazards associated with the use of imprinted birds in falconry.

(7) Name, address, age and experience in handling raptors of any person the applicant proposes to act as an authorized agent in taking possession of golden eagles provided by the Service.

(8) To obtain additional or replacement golden eagles, a request in writing to the appropriate special agent in charge must be tendered, identifying the existing permit and, for replacement eagles, the reason for such replacement.

(b) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this Subchapter B, permits to possess and transport golden eagles for falconry purposes are subject to the following conditions:

(1) Golden eagles possessed for falconry purposes are considered as raptors and must be maintained in accordance with Federal falconry standards described in §§ 21.28 and 21.29 of this subchapter.

(2) Only golden eagles legally obtained may be possessed and transported for falconry purposes.

(3) Captive breeding of golden eagles possessed for falconry purposes is prohibited.

(4) The applicant, or authorized agent, must agree to take possession of a requested golden eagle(s) within 72 hours of notification of availability. Expenses incurred by the applicant in taking possession of said eagle(s) will be the applicant's responsibility.

(5) The golden eagle(s) must be banded with a numbered eagle marker provided by the Service.

(6) All permits issued pursuant to this section shall state on their face that eagles possessed for falconry purposes under authority of this permit may not be transferred or otherwise intentionally disposed of by any means, including release to the wild, without written approval from the appropriate regional director.

(7) All permits issued pursuant to this section shall state on their face that the appropriate special agent in charge must be notified no later than ten (10) days after the death of a permit holder.

(c) *More restrictive State laws.* Nothing in this section shall be construed to prevent a State from making and/or enforcing more restrictive laws and regulations as regards the use of golden eagles in falconry.

(d) *Issuance criteria.* The Director shall conduct an investigation and shall not issue a permit to possess and transport golden eagles for falconry purposes unless he has determined: that such possession and transportation is compatible with the preservation of golden eagles; that the proposed possession and transportation of golden eagles for falconry is not otherwise prohibited by laws and regulations within the State where the activity is proposed; and that the applicant is qualified to possess and transport golden eagles for falconry purposes. In making the latter determination, the Director shall consider, but shall not necessarily be limited to, the following:

(1) The applicant's cumulative falconry experience.

(2) The applicant's demonstrated ability to handle and care for large raptors.

(3) Information contained in the applicant's letters of reference.

(e) *Tenure of permits.* Any permit to possess and transport golden eagles for falconry purposes is valid for as long as the holder maintains a valid master (or equivalent) class falconry permit or until revoked in writing by the Service.

(f) *Permission to trap golden eagles for falconry purposes.* Applicants desiring to trap golden eagles from the wild for use in falconry must request and obtain permission from the Service prior to exercising this privilege. The following applies to requests:

(1) Only golden eagles from a specified depredation area may be trapped for falconry purposes.

(2) Permission to trap golden eagles must be requested in writing from the appropriate State Animal Damage Control (ADC) supervisor subsequent to issuance of the permit to possess and transport golden eagles for falconry purposes.

(3) Permission to trap will not be granted until the permittee suitably demonstrates to the State ADC supervisor or a designated project leader his/her qualifications and capabilities to trap golden eagles from the wild.

(4) All such trapping must be conducted under the direct supervision of the State ADC supervisor or designated project leader in the specified depredation area.

(5) Any permission to trap golden eagles from the wild pursuant to this section shall in no case extend more than 90 days from the date of issue.

(6) Upon issuance of permission to trap in accordance with the above conditions, the appropriate special agent in charge will be notified in writing by the State ADC supervisor of the individual's name, address, location of the specified depredation area and tenure of permission to trap golden eagles.

(The information collection requirements in this section are cleared by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned approval number 1018-0022. The information is necessary to determine potential permittee's qualifications and is required to obtain a permit)

[49 FR 891, Jan. 6, 1984]

§ 22.25 Permits to take golden eagle nests.

The Director may, upon receipt of an application and in accordance with the issuance criteria of this section, issue a permit authorizing any person to take golden eagle nests during a resource development or recovery operation when the nests are inactive, if the taking is compatible with the preservation of the area nesting population of golden eagles. The information collection requirements contained within this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018-0022. This information is being collected to provide information necessary to evaluate permit applications. This information will be used to review permit applications and make decisions, according to the criteria established in this section for the issuance or denial of such permits. The obligation to respond is required to obtain or retain a permit.

(a) *Application procedure.* Applications for permits to take golden eagle nests must be submitted to the appropriate Special Agent in Charge (see § 13.11(b) of this chapter). Applications are only accepted from persons engaged in a resource development or recovery operation, including the planning and permitting stages of an operation. Each application must contain the general information and certification required by § 13.12(a) of this chapter plus the following additional information:

(1) A description of the resource development or recovery operation in which the applicant is engaged;

(2) The number of golden eagle nests proposed to be taken;

(3) A description of the property on which the taking is proposed, with reference made to its exact geographic location. An appropriately scaled map or plat must be included which delineates the area of the resource development or recovery operation and identifies the exact location of each golden eagle nest proposed to be taken. The map or plat must contain enough detail so that each golden eagle nest proposed to be taken can be readily located by the Service.

(4) For each golden eagle nest proposed to be taken, the applicant must calculate the area nesting population of golden eagles and identify on an appropriately scaled map or plat the exact location of each golden eagle nest used to calculate the area nesting population unless the Service has sufficient data to independently calculate the area nesting population. The map or plat must contain enough details so that each golden eagle nest used to calculate the area nesting population can be readily located by the Service.

(5) A description of each activity to be performed during the resource development or recovery operation which involves the taking of a golden eagle nest;

(6) A statement with any supporting documents from ornithologists experienced with golden eagles or other qualified persons who have made on site inspections and can verify the applicant's calculation of the area nesting population;

(7) The length of time for which the permit is requested, including the dates on which the proposed resource development or recovery operation is to begin and end;

(8) A statement indicating the intended disposition of each nest proposed to be taken. Applicants should state whether they are willing to collect any nest for scientific or educational purposes; and

(9) A statement indicating any proposed mitigation measures that are compatible with the resource development or recovery operation to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any inactive golden eagle nest taken, or establishing one or more nest sites. If the establishment of one or more nest sites is proposed, a description of the materials and methods to be used and the exact location of each artificial nest site must be included.

(b) *Additional permit conditions.* In addition to the general conditions set forth in Part 13 of this chapter, permits to take golden eagle nests are subject to the following additional conditions:

(1) Only inactive golden eagle nests may be taken.

(2) The permittee shall submit a report of activities conducted under the permit to the Director within ten (10) days following the permit's expiration;

(3) The permittee shall notify the Director in writing at least 10 days but not more than 30 days before any golden eagle nest is taken;

(4) The permittee shall comply with any mitigation measures determined by the Director to be feasible and compatible with the resource development or recovery operation; and

(5) Any permit issued before the commencement of a resource development or recovery operation is invalid if the activity which required a permit is not performed.

(c) *Issuance criteria.* The Director shall conduct an investigation and not issue a permit to take any golden eagle nest unless such taking is compatible with the preservation of the area nesting population of golden eagles. In making such determination, the Director shall consider the following:

(1) Whether the applicant can reasonably conduct the resource development or recovery operation in a manner that avoids taking any golden eagle nest;

(2) The total number of golden eagle nests proposed to be taken;

(3) The size of the area nesting population of golden eagles;

(4) Whether suitable golden eagle nesting and foraging habitat unaffected by the resource development or recovery operation is available to the area nesting population of golden eagles to accommodate any golden eagles displaced by the resource development or recovery operation;

(5) Whether feasible mitigation measures compatible with the resource development or recovery operation are available to encourage golden eagles to reoccupy the resource development or recovery site. Mitigation measures may include reclaiming disturbed land to enhance golden eagle nesting and foraging habitat, relocating in suitable habitat any golden eagle nest taken, or establishing one or more nest sites; and

(6) Whether the area nesting population is widely dispersed or locally concentrated.

(d) *Tenure of permits.* The tenure of any permit to take golden eagle nests is 2 years from the date of issuance, unless a shorter period of time is prescribed on the face of the permit. Permits may be renewed in accordance with Part 13 of this chapter.

[48 FR 57300, Dec. 29, 1983]

Subpart D—Depredation Control Orders on Golden Eagles

§ 22.31 Golden eagle depredations control order on request of Governor of a State.

(a) Whenever the Governor of any State requests permission to take golden eagles to seasonally protect domesticated flocks and herds in such State, the Director shall make an investigation and if he determines that such taking is necessary to and will seasonally protect domesticated flocks and herds in such States he shall authorize such taking in whatever part or parts of the State and for such periods as he determines necessary to protect such interests.

(b) Requests from the Governor of a State to take golden eagles to seasonally protect domesticated flocks and herds must be submitted in writing to the Director listing the periods of time during which the taking of such birds is recommended, and including a map of the State indicating the boundaries of the proposed area of taking. Such requests should include a statement of the facts and the source of such facts that in the Governor's opinion justifies the request. After a decision by the Director, the Governor will be advised in writing concerning the request and a notice will be published in the FEDERAL REGISTER.

§ 22.32 Conditions and limitations on taking under depredation control order.

(a) Whenever the taking of golden eagles without a permit is authorized for the seasonal protection of livestock, such birds may be taken by firearms, traps, or other suitable means except by poison or from aircraft.

(b) Any person exercising any of the privileges granted by this Subpart D must permit all reasonable times, including during actual operations, any Service agent, or other game law enforcement officer free and unrestricted access over the premises on which such operations have been or are being conducted; and shall furnish promptly to such officer whatever information he may require concerning such operations.

(c) The authority to take golden eagles under a depredations control order issued pursuant to this Subpart D only authorizes the taking of golden eagles when necessary to seasonally protect domesticated flocks and herds, and all such birds taken must be reported and turned over to a local Bureau Agent.

PART 23—ENDANGERED SPECIES CONVENTION

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AUTHORITY: Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249; and Endangered Species Act of 1973, 87 Stat. 884, 16 U.S.C. 1531-43.

SOURCE: 42 FR 10465, Feb. 22, 1977, unless otherwise noted.

Subpart A—Introduction

§ 23.1 Purpose of regulations.

(a) The regulations in this part implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

(b) The regulations identify those species of wildlife and plants included in Appendix I, II or III to the Convention.

§ 23.2 Scope of regulations.

(a) The regulations of this part apply only to wildlife and plants listed in Appendix I, II or III to the Convention, listed herein in § 23.23 for the convenience of the public. It should be noted that many species listed in Appendix I, II or III are also listed in Part 17 (endangered and threatened species) or Part 18 (marine mammals), and are subject to additional regulations in those parts or in Part 216 (marine mammals) or Parts 217-225 (endangered and threatened species) for species under jurisdiction of the National Marine Fisheries Service.

§ 23.3 Definitions.

In addition to the definitions contained in Parts 10 and 17 of this subchapter, and unless the context requires otherwise, in this part:

"Appendix I" means the list of wildlife and plants called "Appendix I" and attached to the Convention (see § 23.23 for the list).

"Appendix II" means the list of wildlife and plants called "Appendix II" and attached to the Convention (see § 23.23 for the list).

"Appendix III" means the list of wildlife and plants called "Appendix III" and attached to the Convention (see § 23.23 for the list).

"Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, TIAS 8249.

"Management Authority" means a national management authority officially designated by a party to implement the present Convention, including the granting of permits or certificates for Convention purposes on behalf of the party.

"Party" means a country for which the Convention has entered into force, by virtue of ratification or accession.

"Re-export" means export of wildlife or plants that have previously been imported.

"United States" means all of the several states, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

§ 23.4 Parties to the Convention.

The following countries are currently parties to the Convention. The name and address of the management authority is included under the name of each country. This list is for the convenience of the public, and does not preclude the application of regulations in this Part 23 to importation, exportation or re-exportation to or from other countries.

Australia

The Bureau of Customs, Department of Business and Consumer Affairs, Canberra, Act 2600, Australia.

Brazil

Instituto Brasileiro de Desenvolvimento, Florestal (IBDF) do Ministério da Agricultura, Palacio do Desenvolvimento, Setor Bancario Norte, 13° andar, 70000 Brazilia—DF Brazil.

Canada

The Administrator, Convention on International Trade in Endangered Species, Canadian Wildlife Service, Department of the Environment, Ottawa, Ontario, K1A OH3, Canada.

Chile

Servico Agricola y Ganadero (SAG), Ministerio de Agricultura, Santiago, Chile.

Costa Rica

Departmento de Pesca Continental y Vida Silvestre, Ministério de Agricultura y Ganaderia, San Jose, Costa Rica.

Cyprus

Ministry of Agriculture and Natural Resources, Nicosia, Cyprus.

Ecuador

Ministério de Agricultura y Ganaderia, Quito, Ecuador.

Federal Republic of Germany

Bundesminister für Ernährung Landwirtschaft und Forsten, Rochusstrasse 1, 5300 Bonn-Duisdorf, Federal Republic of Germany.

Finland

Maa—ja Metsatalousministerio, Ministry of Agriculture and Forestry, Bureau of Natural Resources, Hallituskatu 3 A, 00170 Helsinki 3 A, Finland.

German Democratic Republic

Ministerium für Land, Forst und Nahrungsgüterwirtschaft, der Deutschen Demokratischen Republik, DDR-1157 Berlin, German Democratic Republic.

Ghana

Department of Game and Wildlife, P.O. Box M 239, Accra, Ghana.

India

The Director of Wildlife Preservation, Government of India, Ministry of Agriculture and Irrigation, Department of Agriculture, Krishi Bhaven, New Delhi—110001, India.

Iran

Department of the Environment, P.O. Box 1430, Tehran, Iran.

Malagasy Republic

Direction des Eaux et Forets et de la Conservation des Sols, B.P. 243, Tananarive.

Mauritius

The Conservator of Forests, Forest Service, Curepipe, Mauritius.

Morocco

Comité National de l'Environment, Direction de l'Environment, Ministère de l'Urbanisme, de l'Habitat, du Tourisme et de l'Environment, Rabat, Morocco.

Nepal

Not available.

Niger

Ministère de l'Economie rurale, et du Climat, Niamey, Niger.

Nigeria

Not available.

Norway

The Royal Ministry of Environment, Myntgaten 2, P.O. Box 8012 Oslo-Dep., N—Oslo 1, Norway.

Pakistan

Mr. A.M. Khattak, Inspector General of Forests/Member Secretary, Government of Pakistan, Ministry of Food, Agriculture, Cooperatives, Under-Developed Areas and Land Reforms (Food and Agriculture Division), National Council for Conservation of Wildlife, Bungalow No.: 4-G, St. No.: 51, F.6/Islamabad, Pakistan.

Papua New Guinea

The Conservator of Fauna, Department of Natural Resources, P.O. Box 2585, Konedobu, Papua, New Guinea.

Paraguay

Not available.

Peru

Direccion General Forestal y de Fauna, Natalio Sánches 220, 3er. piso, Jesus Maria, Lima, Peru.

South Africa

The Secretary, Department of Planning and the Environment, Private Bag X 213, Pretoria 0001, South Africa.

Sweden

Lantbruksstyrelsen, Vallgatan 6, S-551 83 Jonkoping, Sweden.

Switzerland

Office veterinaire federal, Thunstrasse 17, 3005 Berne 3, Switzerland.

Tunisia

Direction des Forets, 36, rue Alain Savary, Tunis, Tunisia.

Union of Soviet Socialist Republics

Not available.

United Arab Emirates

Not available.

United Kingdom of Great Britain and Northern Ireland

Department of the Environment, 17/19 Rochester Row, London SW1P 1LN, England.

United States of America

Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240 U.S.A.

Uruguay

Presidente del Instituto Nacional para la Preservacion del Medio Ambiente, Ministerio de Education y Cultura, Sarandi 444, Montevideo, Uruguay.

Zaire

Le Commissaire d'Etat a l'Environment, Conservation de la Nature et Tourisme Boite Postale 12348, Kinshasa/Gombe, Zaire.

Subpart B—Prohibitions, Permits and Exceptions

§ 23.11 Prohibitions.

(a) Unless the requirements in this Part 23 are met, or one of the exceptions in this Part 23 is applicable, it is unlawful for any person subject to the jurisdiction of the United States to commit, attempt to commit, solicit another to commit, or cause to be committed any of the acts described in paragraphs (b) through (d) of this section.

(b) *Import.* (1) It is unlawful to import into the United States any wildlife or plant listed in Appendix I, II or III (see § 23.23) from any foreign country.

(2) It is unlawful to import directly into the United States any wildlife or plant listed in Appendix I or II (see § 23.23) taken from the sea beyond the jurisdiction of any country.

(c) *Export.* It is unlawful to export from the United States any wildlife or plant listed in Appendix I, II or III (see § 23.23).

(d) *Re-export.* It is unlawful to re-export from the United States any wildlife or plant listed in Appendix I, II or III (see § 23.23).

(e) *Possession.* It is unlawful for any person subject to the jurisdiction of the United States to possess any wildlife or plant listed in Appendix I, II or III imported into the United States, or exported or re-exported from the United States contrary to the provisions of the Convention or this Part 23.

§ 23.12 Requirements.

(a) *Import*—(1) *Appendix I.* (i) In order to import into the United States any wildlife or plant listed in Appendix I from any foreign country, a United States import permit, issued pursuant to § 23.15, and a valid foreign export permit issued by the country of origin or a valid foreign re-export certificate issued by the country of re-export must be obtained prior to such importation.

(ii) In order to import directly into the United States any wildlife or plant listed in Appendix I taken from the sea beyond the jurisdiction of any country, a United States import permit issued pursuant to § 23.15 must be obtained prior to such importation.

(2) *Appendix II.* (i) In order to import into the United States any wildlife or plant listed in Appendix II from any foreign country, a valid foreign export permit issued by the country of origin, or a valid foreign re-export certificate issued by the country of re-export, must be obtained prior to such importation.

(ii) In order to import directly into the United States any wildlife or plant listed in Appendix II taken from the sea beyond the jurisdiction of any country, a United States import permit issued pursuant to § 23.15, must be obtained prior to such importation.

(3) *Appendix III.* (i) In order to import into the United States any wildlife or plant listed in Appendix III from a foreign country that has listed such animal or plant in Appendix III, a valid foreign export permit or re-export certificate issued by such country must be obtained prior to such importation.

(ii) In order to import into the United States any wildlife or plant listed in Appendix III from a foreign country that has not listed such wildlife or plant in Appendix III, a valid foreign certificate of origin or foreign re-export certificate must be obtained prior to such importation.

(b) *Export or re-export*—(1) *Appendices I and II.* In order to export or re-export from the United States any wildlife or plant listed in Appendix I or II, a United States export permit or re-export certificate, issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

(2) *Appendix III.* (i) In order to export or re-export from the United States any wildlife or plant listed in Appendix III by the United States, a United States export permit or re-export certificate issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

(ii) In order to export or re-export from the United States any wildlife or plant listed in Appendix III that has not been listed by the United States, a re-export certificate or certificate of origin, issued pursuant to § 23.15, must be obtained prior to such exportation or re-exportation.

§ 23.13 Exceptions.

(a) If any wildlife or plant listed in Appendix I, II or III is also subject to the regulations in Part 17 or Part 18 of this subchapter, the prohibitions and exceptions in those parts and in Part 23 shall apply. Exceptions in one part cannot be invoked to allow activities prohibited in another part.

(b) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plant listed in Appendix I, II or III that are being transshipped through the United States provided such wildlife or plants remain in Customs custody.

(c) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants when a certificate has been issued by the management authority of the country of origin or the country of re-export to the effect that the wildlife or plant was acquired prior to the date the Convention applied to it. See § 23.15 for rules on the issuance of such certificates.

(d) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants that are accompanying personal baggage or part of a shipment of the household effects of persons moving their residences to or from the United States: *Provided,* That this exception shall not apply to:

(1) Importation by U.S. residents of wildlife or plants listed in Appendix I that were acquired outside the United States; or

(2) Importation by U.S. residents of wildlife or plants listed in Appendix II that were taken from the wild in a foreign country, if that country requires export permits.

(e) Wildlife or plants listed in Appendix I that have been bred in captivity or artificially propagated, for commercial activities, shall be treated as if listed in Appendix II.

(f) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to wildlife or plants when a certificate has been issued by the management authority of the country of export to the effect that the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived therefrom. See § 23.15 for rules on the issuance of such certificates.

(g) The prohibitions in § 23.11 (b) through (d) concerning importation, exportation and re-exportation shall not apply to herbarium specimens, other preserved, dried or embedded museum specimens, and live plant material when they are imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions that have been registered by a management authority of their country, and when a label issued or approved by such management authority is clearly affixed to the package or container. See § 23.15 for rules on registration and issuance or approval of labels.

§ 23.14 Foreign documentation.

(a) *Party countries.* Only export permits, re-export certificates, certificates of origin, or other certificates issued and signed by a management authority will be accepted as a valid foreign document from a country that is a party to the Convention.

(b) *Countries that are not parties.* The requirements in this Part 23 apply to all wildlife and plants listed in Appendix I, II or III to the Convention, whether the shipment is to or from a country that is party to the Convention, or to or from any other country. In the case of a shipment from a country not party to the Convention, documents containing information corresponding to that required by the regulations in this Part 23 may be accepted. Such documents may be in the form of an export or import permit, a letter from the proper authority, or any other form that clearly indicates the nature of the document. Such documents must:

(1) Be issued by an official of the country responsible for authorizing the export of such wildlife or plants;

(2) Specify the species (or taxa to the rank listed in Appendix I, II or III) and give the numbers of wildlife or plants covered by the document; and

(3) Contain the following statement or its equivalent:

I, ————————, (Signing official), hereby certify that the shipment of wildlife or plants covered by this document is in accordance with the laws of ———— (Country), will not be detrimental to the survival of the species in the wild, and, if living, will be transported in a manner which will minimize the risk of injury, damage to health, or cruel treatment.

§ 23.15 Permits and certificates.

(a) In order to import, export or re-export wildlife or plants listed in Appendix I, II or III that are also listed as endangered or threatened and subject to regulations in Part 17 of this subchapter, the requirements in both Part 17 and Part 23 must be met. A single application meeting the appropriate application requirements in Part 17 will also meet the application requirements in Part 23.

(b) In order to import wildlife listed in Appendix I, II or III that are marine mammals subject to regulations in Part 18 of this subchapter, the requirements in both Part 18 and Part 23 must be met. A single application meeting the application requirements in Part 18 will also meet the application requirements in Part 23.

(c) Application requirements for permits or certificates to import, export or re-export wildlife or plants listed in Appendix I, II or III that are not subject to the regulations in Part 17 or Part 18 of this subchapter. Applications for permits or certificates under this section must be submitted to the

Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, other preserved, dried or embedded museum specimen or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.

(d) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a), (b) or (c) of this section, the Director will decide whether or not a permit or certificate should be issued. In making his decision, the Director shall consider in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the proposed import, export or re-export would be detrimental to the survival of the species;

(2) Whether the wildlife or plant was acquired lawfully;

(3) Whether any living wildlife or plant to be exported or re-exported will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment;

(4) Whether any living wildlife or plant to be imported directly into the United States from the sea beyond the jurisdiction of any country will be so handled as to minimize the risk of injury, damage to health or cruel treatment;

(5) Whether an import permit has been granted by a foreign country, in the case of proposed export or re-export from the United States of any wildlife or plant listed in Appendix I;

(6) Whether the proposed recipient of any living wildlife or plant listed in Appendix I to be imported into the United States is suitably equipped to

house and care for such wildlife or plant;

(7) Whether any wildlife or plant listed in Appendix I to be imported into the United States is to be used for primarily commercial activities; and

(8) Whether the evidence submitted is sufficient to justify an exception, in the case of (i) wildlife or plants that were acquired prior to the date the Convention applied to them; (ii) wildlife or plants that were bred in captivity or artificially propagated, or were part of or derived there from; or (iii) wildlife or plants that are herbarium specimens; other preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a noncommercial loan, donation or exchange between scientists or scientific institutions.

(9) Whether in the case of wildlife or plants listed in Appendix II, they are the subject of a large volume of trade and are not necessarily threatened with extinction.

(e) *Permit or certificate conditions.* In addition to the general criteria set forth in Part 13 of this subchapter, permits or certificates issued under this section shall be subject to the following special conditions:

(1) Any permit must be presented to a Service agent at a designated port of entry upon importation into the United States or prior to exportation or re-exportation from the United States:

(2) Where appropriate and feasible, the Service may require that an identifying mark be affixed upon any wildlife or plant;

(3) In the case of wildlife or plants that are herbarium specimens, other preserved, dried or embedded museum specimens, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. The letters "CITES" (acronym for the Convention), a description such as "herbarium specimens," and the code letters assigned by the Service to the scientist or scientific institution, must be entered on the Customs declaration form affixed to each package or container.

(f) *Duration of permits or certificates.* The duration of permits or certificates issued under this section shall be designated on the face of the permit or certificate, but in no case will export permits be valid for longer than six months.

Subpart C—Appendices I, II and III to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

§ 23.21 Criteria for listing species. [Reserved]

§ 23.22 Procedures for amending the appendices. [Reserved]

§ 23.23 Species listed in Appendices I, II, and III.

(a) The list in this section includes species of wildlife and plants placed in Appendix I, II or III in accordance with the provisions of Articles XV and XVI of the Convention.

The list of species is organized as follows:

Major group	Subgroups
Mammals	Orders, in taxonomic sequence.
Birds	Do.
Reptiles	Do.
Amphibians	Do.
Fishes	Do.
Molluscs	Classes.
Insects	None.
Plants	Families, in alphabetical sequence.

In each group, species are listed in alphabetical sequence. The scientific name takes precedence over the common name in determining if a species is listed.

(b) The appendix column of the list includes the annotation "pe" (=possibly extinct) for certain species. It also contains the names of Parties including species in Appendix III.

(c) For purposes of issuing United States certificates of exemption under Article VII(3), the date when the Convention applies to a species is the date when the inclusion of that species in the appendices enters into force under the terms of Article XV or XVI of the

Convention. The date of first listing is retained if a species is transferred from one appendix to another or if a listed species is subsequently included with other species in the listing of a taxon above the species level. Such species are shown separately in this publication of the appendices. The date of a subsequent listing is used only if a species is entirely deleted from the appendices and is subsequently reincluded after an intervening period of time.

(d) All living or dead wildlife in Appendix I or II and plants included in Appendix I and all readily recognizable parts and derivatives thereof are subject to the regulations of this Part. All living or dead wildlife included in Appendix III and plants included in Appendix II or III, and any readily recognizable parts or derivatives thereof specified in the list of species are subject to the regulations of this part.

Species	Common name	Appendix	Date listed (month/day/year)
CLASS MAMMALIA:	MAMMALS:		
Order Monotremata:	Monotremes:		
Zaglossus spp	Spiny anteaters	II	2/4/77
Order Marsupialia:	Marsupials:		
Bettongia spp (except species listed below)	Rat kangaroos	I	6/28/79
B. penicillata	Brush-tailed rat kangaroo, Woylie	I	7/1/75
B. lesuer	Lesueur's rat kangaroo, Boodie	I	7/1/75
B. tropica	Queensland rat kangaroo, Northern rat kangaroo.	I	7/1/75
Burramys parvus	Mountain pigmy possum	II	7/1/75
Calopymnus campestris	Desert rat kangaroo	I pe	7/1/75
Chaeropus ecaudatus	Pig-footed bandicoot	I pe	7/1/75
Dendrolagus bennettianus	Bennett's tree kangaroo, Dusky tree kangaroo.	II	6/28/79
D. inustus	Tree kangaroo	II	7/1/75
D. lumholtzi	Lumholtz's tree kangaroo	II	6/28/79
D. ursinus	Grizzled tree kangaroo	II	7/1/75
Lagorchestes hirsutus	Western hare-wallaby, Wurrup	I	7/1/75
Lagostrophus fasciatus	Banded hare-wallaby, Munning	I	7/1/75
Lasiorhinus krefftii	Queensland hairy-nosed wombat	I	7/1/75
Macrotis lagotis	Rabbit bandicoot, Bilby	I	7/1/75
M. leucura	Lesser rabbit bandicoot, Yallara	I	7/1/75
Onychogalea frenata	Bridled nail-tailed wallaby	I	7/1/75
O. lunata	Crescent nail-tailed wallaby	I	7/1/75
Perameles bougainville	Barred bandicoot, Long-nosed bandicoot, Mari.	I	7/1/75
Phalanger maculatus	Spotted cuscus	II	6/28/79
P. orientalis	Gray cuscus	II	6/28/79
Sminthopsis longicaudata	Long-tailed mersupial mouse, Long-tailed dunnart.	I	7/1/75
S. psammophila	Large desert marsupial mouse, Sandhill dunnart.	I	7/1/75
Thylacinus cynocephalus	Thylacine, Tasmanian wolf	I pe	7/1/75
Order Insectivora:	Insectivores:		
Erinaceus frontalis	African hedgehog	II	7/1/75
Order Chiroptera:	Bats:		
Vampyrops lineatus (all parts and derivatives).	White-lined bat	III (Uruguay)	7/14/76
Order Primates:	Primates: Monkeys, Apes, etc:		
All species except those in app. I or with earlier date in app. II.		II	2/4/77
Allocebus spp	Hairy-eared dwarf lemur	I	7/1/75
Alouatta palliata (= *villosa*)	Mantled howler monkey	I	7/1/75
Ateles geoffroyi frontatus	Black-handed spider monkey	I	7/1/75
A. geoffroyi panamensis	Black-handed spider monkey	I	7/1/75
Avahi spp	Avahis, Woolly lemurs	I	7/1/75
Brachyteles arachnoides	Woolly spider monkey	I	7/1/75
Cacajao spp	Uakaris	I	7/1/75
Callimico goeldii	Goeldi's monkey, Callimico	I	7/1/75
Callithrix aurita	White-eared marmoset	I	2/4/77
C. flaviceps	Buff-headed marmoset	I	2/4/77
Cebus capucinus	White-throated capuchin	II	7/1/75
Cercocebus galeritus galeritus	Tana River mangabey, Agile mangabey	I	7/1/75

Species	Common name	Appendix	Date listed (month/ day/year)
Cercopithecus diana	Diana monkey	I	2/4/77
Cheirogaleus spp	Dwarf lemurs	I	7/1/75
Chiropotes albinasus	White-nosed saki	I	7/1/75
Colobus babius kirkii	Zanzibar red colobus	I	7/1/75
C. badius rufomitratus	Tana River red colobus	I	7/1/75
C. badius gordonorum	Uhehe red colobus	II	7/1/75
C. verus	Olive colobus	II	7/1/75
Daubentonia madagascariensis	Aye-aye	I	7/1/75
Hapalemur spp	Gentle lemurs	I	7/1/75
Hylobates spp	Gibbons	I	7/1/75
Gorilla gorilla	Gorilla	I	7/1/75
Indri spp	Indri	I	7/1/75
Lagothrix flavicauda	Yellow-tailed woolly monkey	I	2/4/77
Lemur spp	Lemurs	I	7/1/75
Lepilemur sp	Sportive or weasel lemur	I	7/1/75
Leontopithecus (=*Leontideus*) *spp*	Golden lion tarmarin	I	7/1/75
Loris tardigradus	Slender loris	II	7/1/75
Macaca silenus	Lion-tailed macaque	I	7/1/75
M. sylvanus	Barbary ape	II	7/1/75
Microcebus spp	Mouse lemurs	I	7/1/75
Nasalis larvatus	Proboscis monkey	I	7/1/75
Nycticebus coucang	Slow loris	II	7/1/75
Pan paniscus	Pygmy chimpanzee, Bonobo	I	7/1/75
P. troglodytes	Chimpanzee	I	7/1/75
Papio (=*Mandrillus*) *leucophaeus*	Drill	I	2/4/77
P. (=*Mandrillus*) *sphinx*	Mandrill	I	2/4/77
Phaner sp	Fork or fork-marked mouse lemur	I	7/1/75
Pongidae spp (*all species in family except those with earlier date*).	Chimpanzees, Gorillas, Orangutans	I	2/4/77
Pongo pygmaeus abelli	Orangutan	I	7/1/75
P. pygmaeus pygmaeus	Orangutan	I	7/1/75
Presbytis entellus	Gray or common Indian langur	I	7/1/75
P. geei	Golden langur	I	7/1/75
P. johni	Nilgiri langur	II	7/1/75
P. pileatus	Capped langur	I	7/1/75
P. potenziana	Long-tailed langur, Mentawai leaf monkey.	I	2/4/77
Propithecus spp	Sifakas	I	7/1/75
Pygathrix nemaeus	Douc langur	I	7/1/75
Rhynopithecus roxellanae	Snub-nosed langur	II	7/1/75
Saguinus bicolor	Pied tarmarin	I	2/4/77
S. leucopus	White-footed tamarin, Silvery-brown bare-face tamarin.	I	2/4/77
S. oedipus (Including S.o. geoffroyi)	Cotton-top tamarin	I	2/4/77
Saimri oerstedii	Red-backed squirrel monkey	I	7/1/75
Simias concolor	Pagai Island langur	I	7/1/75
Symphalangus syndactylus	Siamang	I	7/1/75
Order Edentata:	Anteaters, Sloths, Armadillos:		
Bradypus boliviensis	Three-toed sloth	II	7/1/75
B. griseus (ali parts and derivatives)	Three-toed sloth	III (Costa Rica).	10/28/76
Cabassous centralis (all parts and derivatives).	Five-toed armadillo	III. (Costa Rica).	10/28/76
C. gymnurus (*tatouay*) (all parts and derivatives).	Naked-tailed armadillo	III. (Uruguay)	7/14/76
Choloepus hoffmanni (all parts and derivatives).	Two-toed sloth	III (Costa Rica)	10/28/76
Myrmecophaga tridactyla	Giant Anteater	II	7/1/75
Priodontes giganteus (=*maximus*)	Giant armadillo	I	7/1/75
Tamandua tetradactyla (all parts and derivatives).	Tamandua, Collared anteater	III (Guatemala)	4/23/81
T. tetradactyla chapadensis	Tamandua, Collared anteater	II	7/1/75
Order Pholidota:	Pangolins, Scaly Anteaters:		
Manis crassicaudata	Thick-tailed or Indian pangolin	II	7/1/75
M. gigantea (all parts and derivatives)	Giant pangolin	III (Ghana)	2/26/76
M. javanica	Malayan pangolin	II	7/1/75
M. longicaudata (all parts and derivatives)	Long-tailed pangolin	III (Ghana)	2/26/76
M. pentadactyla	Chinese pangolin	II	7/1/75
M. temmincki	Common African ground pangolin	I	7/1/75
M. tricuspis (all parts and derivatives)	African tree pangolin	III (Ghana)	2/26/76
Order Lagomorpha:	Rabbits, Hares:		
Caprolagus hispidus	Hispid hare, Assam rabbit	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Nesolagus netscheri	Sumatra short-eared rabbit	I	7/1/75
Romerolagus diazi	Mexican volcano rabbit	I	7/1/75
Order Rodentia:	Rodents:		
Anomalurus spp. species native to Ghana, (all parts and derivatives).	Scaly-tailed flying squirrels	III (Ghana)	2/26/76
Chinchilla spp. (populations of South America except subspecies below).	Chinchilla	I	2/4/77
C. brevicaudata boliviana	Chinchilla	I	7/1/75
Coendou spinosus (all parts and derivatives)	Prehensile-tailed porcupine	III (Uruguay)	7/14/76
Cynomys mexicanus	Mexican prairie dog	I	7/1/75
Dipodomys phillipsii phillipsii	Phillips kangaroo rat	II	7/1/75
Epixerus ebii (all parts and derivatives)	African palm squirrel	III (Ghana)	2/26/76
Hystrix, spp. species native to Ghana (all parts and derivatives).	Crested porcupines	III (Ghana)	2/26/76
Idiurus spp. species native to Ghana (all parts and derivatives).	Pigmy flying squirrels	III (Ghana)	2/26/76
Lariscus hosei	Four-striped or Bornean black-striped ground squirrel.	II	7/1/75
Leporillus conditor	Australian stick-nest rat	I	7/1/75
Notomys spp. (except species listed below)	Australian hopping mice	II	6/28/79
N. aquilo	Australian northern hopping mouse, Cape York hopping mouse.	II	7/1/75
Pseudomys fumeus	Smokey mouse	I	7/1/75
P. praeconis	Shark Bay mouse	I	7/1/75
P. shortridgei	Western pseudo rat, Shortridge's mouse.	II	7/1/75
Ratufa spp.	Giant squirrels	II	7/1/75
Sciurus deppei (all parts and derivatives)	Deppe's squirrel	III (Costa Rica)	10/28/76
Xeromys myoides	False water rat	I	7/1/75
Zyzomys pedunculatus	McDonnell Range rock rat	I	7/1/75
Order Cetacea:	Whales, Porpoises, Dolphins:		
All species except those in app. I or with earlier date in app. II.		II	6/28/79
Balaena mysticetus	Bowhead whale	I	7/1/75
Balaenoptera acutorostrata (all populations except that of West Greenland: entry into force as App. I on 1/1/86).	Minke Whale	I	6/28/79
Balaenoptera borealis	Sei whale	I	2/4/77
Balaenoptera edeni	Brydes whale	I	6/28/79
Berardius spp	Beaked whales	I	6/28/79
B. musculus	Blue whale	I	7/1/75
B. physalus	Fin whale	I	2/4/77
Caperia marginata (entry into force as App. I on 1/1/86.	Pygmy right whale	I	6/28/79
Eubalaena spp.	Right whale	I	7/1/75
Eschrichtius robustus (*glaucus*)	Gray whale	I	7/1/75
Hyperoodon spp	Bottle-nosed whales	I	6/28/79
Lipotes vexillifer	White flag dolphin, Chinese river dolphin.	I	6/28/79
Megaptera novaeangliae	Humpback whale	I	7/1/75
Monodon monoceros	Narwhal	II	11/16/75
Neophocaena phocaenoides	Finless porpoise	I	6/28/79
Phocoena sinus	Gulf of California harbor porpoise, Cochita.	I	6/28/79
Physeter catodon	Sperm whale	I	2/4/77
Platanista spp.	Ganges and Indus River Dolphins	I	7/1/75
Pontoporia (*Stenodelphis*) *blainvillei*	LaPlata River dolphin	II	7/14/76
Sotalia spp.	Humpbacked dolphins	I	6/28/79
Sousa spp.	Humpbacked dolphins	I	6/28/79
Order Carnivora:	Carnivores: Cats, Bears, etc.:		
Acinonyx jubatus	Cheetah	I	7/1/75
Ailuropoda melanoleuca	Giant panda	I	3/14/84
Ailurus fulgens	Lesser panda	II	7/1/75
Aonyx microdon	West African "clawless" otter	I	7/1/75
Bassaricyon gabbii (all parts and derivatives)	Bushy-tailed olingo	III (Costa Rica).	10/28/76
Bassariscus sumichrasti (all parts and derivatives).	Cacomistle	III (Costa Rica).	10/28/76
Canis lupus (all subspecies and populations except those listed below).	Gray wolf	II	2/4/77
C. lupus (India, Pakistan, Bhutan and Nepal populations).	Gray wolf	I	2/4/77

Species	Common name	Appendix	Date listed (month/day/year)
C. lupus crassodon	Gray wolf	II	7/1/75
C. lupus irremotus	Gray wolf	II	7/1/75
C. lupus monstrabilis	Gray wolf	II	7/1/75
C. lupus pallipes	Gray wolf	II	7/1/75
Chrysocyon brachyurus	Maned wolf	II	7/1/75
Conepatus humboldti	Humboldt's hognose skunk	II	6/28/79
Cryptoprocta ferox	Fossa	II	2/4/77
Cuon alpinus	Dhole	II	7/1/75
Cynogale bennetti	Otter civet	II	7/1/75
Dusicyon culpaeus	Culepo fox	II	6/28/79
D. fulvipes	Chiloe fox	II	6/28/79
D. griseus	Chico gray fox, Argentine gray fox	II	6/28/79
Enhydra lutris nereis	Southern sea otter	I	7/1/75
Eupleres goudoti	Malagasy mongoose	II	2/4/77
E. major	Malagasy mongoose	II	2/4/77
Felidae spp. (all species in Family except those in app. I or *Felis catus*).	Cats (not including house cats)	II	2/4/77
Felis bengalensis bengalensis	Leopard cat	I	7/1/75
F. caracal (Asian population)	Caracal	I	7/1/75
F. concolor coryi	Florida puma	I	7/1/75
F. concolor costaricensis	Costa Rican puma	I	7/1/75
F. concolor couguar	Eastern puma, Adirondack cougar	I	7/1/75
F. jacobita	Andean cat	I	7/1/75
F. (Lynx) rufa escuinapae	Mexican bobcat	I	7/1/75
F. marmorata	Marbled cat	I	7/1/75
F. nigripes	Black-footed cat	I	7/1/75
F. pardalis mearnsi	Ocelot	I	7/1/75
F. pardalis mitis	Brazilian ocelot	I	7/1/75
F. planiceps	Flat-headed cat	I	7/1/75
F. rubiginosa (Indian population)	Rusty spotted cat	I	2/4/77
F. temmincki	Asian golden cat	I	7/1/75
F. tigrina oncilla	Tiger cat	I	7/1/75
F. wiedii nicaraguae	Central American margay	I	7/1/75
F. wiedii salvinia	Guatemalan margay	I	7/1/75
F. yagouaroundi cacomitli	Gulf Coast jaguarundi	I	7/1/75
F. yagouaroundi fossata	Guatemalan jaguarundi	I	7/1/75
F. yagouaroundi panamensis	Panamanian jaguarundi	I	7/1/75
F. yagouaroundi tolteca	Sinaloan jaguarundi	I	7/1/75
Fennecus zerda (all parts and derivatives)	Fennec fox	III (Tunisia)	4/22/76
Fossa fossa	Fanaloka	II	2/4/77
Galictis allamandi (all parts and derivatives)	Grison	III (Costa Rica)	10/28/76
Hemigalus derbyanus	Banded palm civet	II	2/4/77
Helarctos malayanus	Sun bear	I	7/1/75
Hyaena brunnea	Brown hyaena	I	7/1/75
Lutrinae spp. (all species in subfamily except those in app. I)	Otters	II	2/4/77
Lutra felina	Marine otter	I	7/1/75
L. longicaudis	Long-tailed or neotropical otter	I	7/1/75
L. lutra	European otter	I	2/4/77
L. provocax	Southern river otter of South America	I	7/1/75
Mellivora capensis (all parts and derivatives)	Honey badger, Ratel	III (Ghana and Botswana).	2/26/76
Mustela nigripes	Black-footed ferret	I	7/1/75
Nasua nasua solitaria (all parts and derivatives).	Coatimundi	III (Uruguay)	7/14/76
Neofelis nebulosa	Clouded leopard	I	7/1/75
Panthera leo persica	Indian lion	I	7/1/75
P. onca	Jaguar	I	7/1/75
P. pardus	Leopard	I	7/1/75
P. tigris (all subspecies except *P. tigris altaica*).	Tiger	I	7/1/75
P. uncia	Snow leopard	I	7/1/75
Prionodon linsang	Banded linsang	II	7/1/75
P. pardicolor	Spotted linsang	I	7/1/75
Proteles cristatus (all parts and derivatives)	Aardwolf	III (Botswana)	4/24/78
Pteronura brasiliensis	Giant otter	I	7/1/75
Selenarctos thibetanus (except subspecies listed below).	Asiatic black bear	I	6/28/79
S. thibetanus gedrosianus	Baluchistan black bear	I	2/4/77
Speothos venaticus	Bush dog	I	2/4/77
Tremarctos ornatus	Spectacled bear	I	2/4/77

Species	Common name	Appendix	Date listed (month/day/year)
Ursus arctos (all North American subspecies except that listed below).	Brown bear, Grizzly	II	7/1/75
U. arctos (European population, USSR excepted).	Brown Bear	II	7/29/83
U. arctos (*Italian population*)	European brown bear	II	7/1/75
U. arctos nelsoni	Mexican grizzly bear	I	7/1/75
U. arctos pruinosus	Tibetan blue bear	I	7/1/75
U. arctos isabelinus	Red bear	I	6/28/79
U. (*-Thalarctos*) *maritimus*	Polar bear	II	7/1/75
Viverra civetta (all parts and derivatives)	African civet	III (Botswana)	4/24/78
Vulpes cana	Blanford's fox	II	2/4/77
Order Pinnipedia:	Seals, Sea lions:		
Arctocephalus spp. (except species listed below).	Southern fur seals	II	7/4/77
A. australis	Southern fur seal	II	7/1/75
A. galapagoensis	Galapagos fur seal.	II	7/1/75
A. philippii	Juan Fernandez fur seal	II	7/1/75
A. townsendi	Guadalupe fur seal	I	7/1/75
Mirounga angustirostris	Northern elephant seal	II	7/1/75
M. leonina	Southern elephant seal	II	7/1/75
Monachus spp.	Monk seals	I	7/1/75
Odobenus rosmarus (all parts and derivatives).	Walrus	III (Canada)	11/16/75
Order Tubulidentata:	Aardvarks:		
Orycteropus afer	Aardvark	II	7/1/75
Order Proboscidea:	Elephants:		
Elephas maximus	Asian elephant	I	7/1/75
Loxodonta africana	African elephant	II	2/4/77
Order Sirenia:	Dugongs, Manatees:		
Dugong dugon (*except for Australian population*).	Dugong	I	7/1/75
D. dugon (*Australian population*)	Dugong	II	7/1/75
Trichechus inunguis	South American or Amazonian manatee	I	7/1/75
T. manatus	West Indian manatee	I	7/1/75
T. senegalensis	West African manatee	II	7/1/75
Order Perissodactyla:	Odd-toed ungulates:		
Equus africanus	African wild ass	I	7/29/83
Equus grevyi	Grevy's zebra	I	6/28/79
E. hemionus (except subspecies listed below).	Asian wild ass	II	7/1/75
E. hemionus hemionus	Asian wild ass	I	7/1/75
E. hemionus khur	Asian wild ass	I	7/1/75
E. przewalskii	Przewalski's horse	I	7/1/75
E. zebra hartmannae	Hartmann's mountain zebra	II	6/28/79
E. zebra zebra	Cape mountain zebra	I	7/1/75
Tapirus bairdii	Central American tapir	I	7/1/75
T. indicus	Asian tapir	I	7/1/75
T. pinchaque	Mountain tapir	I	7/1/75
T. terrestris	South American tapir	II	7/1/75
Ceratotherium simum cottoni	Northern white rhinoceros	I	7/1/75
Diceros bicornis	Black rhinoceros	I	7/1/75
Didermocerus (=*Dicerorhinus*) *sumatrensis*	Sumatran rhinoceros	I	7/1/75
Rhinoceros sondaicus	Javan rhinoceros	I	7/1/75
R. unicornis	Great Indian one-horned rhinoceros	I	7/1/75
Rhinocerotidae spp. (all species in the family except those with earlier date on app. I).	Rhinoceroses	I	2/4/77
Order Artiodactyla:	Even-toed Ungulates:		
Addax nasomaculatus	Addax	I	7/1/75
Ammotragus lervia	Barbary sheep, Aoudad	II	4/22/76
Antilocapra americana mexicana	Mexican pronghorn	II	7/1/75
A. americana peninsularis	Baja pronghorn	I	7/1/75
A. americana sonoriensis	Sonoran pronghorn	I	7/1/75
Antilope cervicapra (all parts and derivatives).	Blackbuck antelope	III (Nepal)	11/16/75
Axis (=*Cervus or Hyelaphus*) *calamianensis*	Calamianes deer	I	7/1/75
A. kuhli	Kuhl's deer, Bawean hog deer	I	7/1/75
A. porcinus annamiticus	Indochina hog deer	I	7/1/75
Babyrousa babyrussa	Babirusa	I	7/1/75
Blastocerus dichotomus	Marsh deer	I	7/1/75

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Bison bison athabascae	Woods bison	I	7/1/75
Boocercus (*Taurotragus*) *euryceros* (all parts and derivatives).	Bongo antelope	III (Ghana)	2/26/76
Bos gaurus	Seladang, Gaur	I	7/1/75
B. (*grunniens*) *mutus*	Wild yak	I	7/1/75
Bubalus bubalis (all parts and derivatives)	Water buffalo	III (Nepal)	11/16/75
B. (*Anoa*) *depressicornis*	Lowland anoa	I	7/1/75
B. (*Anoa*) *mindorensis*	Tamaraw	I	7/1/75
B. (*Anoa*) *quarlesi*	Mountain anoa	I	7/1/75
Capra falconeri (except subspecies listed below).	Markhor	II	7/1/75
C. falconeri chialtanensis	Chialtan markhor	I	7/1/75
C. falconeri megaceros	Kabal or straight-horned markhor	I	7/1/75
Capra falconeri jerdoni	Straight-horned markhor	I	7/1/75
Capricornis sumatraensis	Serow	I	7/1/75
Cephalophus dorsalis	Bay duiker	II	7/29/83
Cephalopus jentinki	Jentink's duiker	II	7/29/83
Cephalophus monticola	Blue duiker	II	7/1/75
Cephalophus ogilbyi	Ogilby's duiker	II	7/29/83
Cephalophus sylvicultor	Yellow-backed duiker	II	7/29/83
Cephalophus zebra	Zebra-banded duiker	II	7/29/83
Cervus duvauceli	Swamp deer	I	7/1/75
C. elaphus bactrianus	Bactrian deer	II	7/1/75
C. elaphus barbarus (all parts and derivatives).	Barbary deer	III (Tunisia)	4/22/76
C. elaphus hanglu	Kashmir stag	I	7/1/75
C. eldi	Eld's brow-antlered deer	I	7/1/75
Choeropsis liberiensis	Pygmy hippopotamus	II	7/1/75
Dama mesopotamica	Persian fallow deer	I	2/4/77
Damaliscus dorcas dorcas	Bontebok	II	7/1/75
D. lunatus (all parts and derivatives)	Sassaby antelope, Korrigum	III (Ghana)	2/26/76
Gazella dama	Dama gazelle	I	7/29/83
Gazella dorcus (all parts and derivatives)	Dorcas gazelle	III (Tunisia)	4/22/76
G. gazella cuvieri (all parts and derivatives)	Mountain gazelle	III (Tunisia)	4/22/76
G. leptoceros (all parts and derivatives)	Slender-horned gazelle	III (Tunisia)	4/22/76
Hippocamelus antisensis	North Andean huemal	I	7/1/75
H. bisulcus	South Andean huemal	I	7/1/75
Hippopotamus amphibius (all parts and derivatives).	Hippopotamus	III (Ghana)	2/26/76
Hippotragus equinus	Roan antelope	II	2/26/76
H. niger variani	Giant sable antelope	I	7/1/75
Hyemoschus aquaticus (all parts and derivatives).	Water chevrotain	III (Ghana)	2/26/76
Kobus leche	Lechwe	II	7/1/75
Lama guanicoe	Guanaco	II	6/12/78
Mazama americana cerasina (all parts and derivatives).	Red brocket deer	III (Guatemala)	4/23/81
Moschus spp. (all except population on app. I).	Musk deer	II	2/16/79
Moschus spp. (populations of Afghanistan, Bhutan, Burma, India, Nepal and Pakistan).	Musk deer	I	7/1/75
Nemorhaedus goral	Goral	I	7/1/75
Novibos (=*Bos*) *sauveli*	Kouprey	I	7/1/75
Odocoileus virginianus mayensis (all parts and derivatives).	Whitetail deer	III (Guatemala)	4/23/81
Oryx dammah	Scimitar-horned oryx	I	7/1/75
O. leucoryx	Arabian oryx	I	7/1/75
Ovis ammon (except subspecies listed below).	Argali	II	7/1/75
O. ammon hodgsoni	Tibetan argali	I	7/1/75
O. canadensis (Mexican population)	Bighorn sheep	II	7/1/75
O. orientalis ophion	Cyprian red sheep	I	7/1/75
O. vignei	Shapo, Urial	I	7/1/75
Ozotoceros bezoarticus	Pampas deer	I	7/1/75
Pantholops hodgsoni	Tibetan antelope	I	7/1/75
Pudu mephistophiles	Pudu	II	7/1/75
P. pudu	Pudu	I	7/1/75
Rupicapra rupicapra ornata	Apennian chamois	I	7/1/75
Sus salvanius	Pygmy hog	I	7/1/75
Tayassu tajacu (all parts and derivatives)	Collared peccary	III (Guatemala)	4/23/81

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Species	Common name	Appendix	Date listed (month/ day/year)
Tetracerus quadricornis (all parts and derivatives).	Four-horned antelope	III (Nepal)	11/16/75
Tragelaphus spekei (all parts and derivatives).	Sitatunga antelope	III (Ghana)	2/26/76
Vicugna vicugna	Vicuna	I	7/1/75
CLASS AVES:	BIRDS:		
Order Struthioniformes:	Ostriches:		
Struthio camelus (populations of Algeria, Central African Republic, Chad, Mali, Mauritania, Morocco, Niger, Nigeria, Senegal, Sudan, Cameroon, and Upper Volta).	Ostrich	I	7/29/83
Order Rheiformes	Rheas:		
Pterocnemia pennata (except subspecies listed below).	Lesser rhea	I	6/28/79
P. pennata garleppi	Lesser rhea	I	7/1/75
P. pennata pennata	Darwin's rhea	I	7/1/75
Rhea americana (except subspecies listed below: all parts and derivatives).	Greater or common rhea	III (Uruguay)	7/14/76
R. americana albescens	Greater rhea	II	7/1/75
Order Sphenisciformes:	Penguins:		
Spheniscus demersus	Jackass penguin, Blackfooted Cape penguin.	II	7/1/75
S. humboldti	Humboldt penguin	I	6/6/81
Order Tinamiformes:	Tinamous:		
Rhynchotus rufescens maculicollis	Red-winged tinamou	II	7/1/75
R. rufescens pallescens	Southern red-winged tinamou	II	7/1/75
R. rufescens rufescens	Western red-winged tinamou	II	7/1/75
Tinamus solitarius	Solitary tinamou	I	7/1/75
Order Podicipediformes:	Grebes:		
Podilymbus gigas	Atitlan grebe	I	7/1/75
Order Procellariformes:	Albatrosses, Shearwaters, Petrels:		
Diomedea albatrus	Short-tailed albatross	I	7/1/75
Order Pelecaniformes:	Tropicbirds, Pelicans, Frigatebirds:		
Fregata andrewsi	Andrews frigate bird	I	7/1/75
Pelecanus crispus	Dalmatian pelican	I	7/1/75
Sula abbotti	Abbott's booby	I	7/1/75
Order Ciconiiformes:	Herons, Storks, Ibises, Flamingos:		
Ardea goliath (all parts and derivatives)	Goliath heron	III (Ghana)	2/26/76
Bubulcus (=*Ardeola*) *ibis* (all parts and derivatives).	Cattle egret	III (Ghana)	2/26/76
Casmerodius albus (all parts and derivatives).	Great white egret	III (Ghana)	2/26/76
Ciconia ciconia boyciana	Oriental white stork	I	7/1/75
C. nigra	Black stork	II	7/1/75
Egretta garzetta (all parts and derivatives)	Little egret	III (Ghana)	2/26/76
Ephippiorhynchus senegalensis (all parts and derivatives).	Saddlebill stork	III (Ghana)	2/26/76
Geronticus calvus	Southern bald ibis	II	7/1/75
G. eremita	Hermit ibis	I	6/28/79
Hagedashia hagedash (all parts and derivatives).	Hadada ibis	III (Ghana)	2/26/76
Lampribis rara (all parts and derivatives)	Spotted-breasted ibis	III (Ghana)	2/26/76
Leptoptilos crumeniferus (all parts and derivatives).	Marabou stork	III (Ghana)	2/26/76
Nipponia nippon	Japanese crested ibis	I	7/1/75
Phoenicoparrus andinus	Andean flamingo	II	7/1/75
P. jamesi	James flamingo	II	7/1/75
Phoenicopteridae spp. (all species except those with earlier date in App. II).	Flamingos	II	7/29/83
Phoenicopterus ruber chilensis	Chilean flamingo	II	7/1/75
P. ruber ruber	American flamingo	II	6/28/79
Platalea leucorodia	White spoonbill	II	7/1/75
Threskiornis aethiopica (all parts and derivatives).	Sacred ibis	III (Ghana)	2/26/76
Order Anseriformes:	Ducks, Geese, Swans, Screamers:		
Anatidae, all species in family native to Ghana (all parts and derivatives).		III (Ghana)	2/26/76
Anas aucklandica aucklandica	Auckland Island flightless teal	II	7/1/75
A. aucklandica chlorotis	New Zealand brown teal	II	7/1/75
A. aucklandica nesiotis	Campbell Island flightless teal	I	7/1/75
A. bernieri	Madagascar teal	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
A. laysanensis	Laysan duck	I	7/1/75
A. oustaleti	Marianas mallard	I	7/1/75
Branta canadensis leucopareia	Aleutian goose	I	7/1/75
B. ruficollis	Red-breasted goose	II	7/1/75
B. sandvicensis	Hawaiian goose, Nene	I	7/1/75
Cairina scutulata	White-winged duck	I	7/1/75
Coscoroba coscoroba	Coscoroba	II	7/1/75
Cygnus bewickii jankowskii	Jankowski's swan	II	7/1/75
C. melanocoryphus	Black-necked swan	II	7/1/75
Dendrocygna arborea	Cuban tree duck, West Indian whistling duck.	II	7/1/75
Oxyura leucocephala	White-headed duck	II	7/29/83
Rhodonessa caryophyllacea	Pink-headed duck	I	7/1/75
Sarkidiornis melanotos	Comb duck	II	7/1/75
Order Falconiformes:	Hawks, Falcons, Vultures, Eagles:		
All species except Cathartidae and those species in app. I or with earlier date in app II.	All species except New world vultures and species in app. I or with earlier date in app. II.	II	6/28/79
Accipiter gentilis	Northern goshawk	II	2/4/77
A. gundlachii	Gundlach's hawk	II	2/4/77
A. nisus	European sparrow hawk	II	2/4/77
Accipitridae spp. (all South American populations).	Hawks, Harriers	II	10/28/76
Aegypius monachus	European black vulture, Cinerous vulture.	II	2/4/77
Aquila spp., all species except that in app., I or with earlier date in app. II.	Eagles	II	2/4/77
A. chrysaetos	Golden eagle	II	7/1/75
A. heliaca	Imperial eagle	I	2/4/77
Chondrohierax wilsonii	Cuban hook-billed kite	I	2/4/77
Circaetus spp	Snake eagles	II	2/4/77
Circus spp	Harriers	II	2/4/77
Falco araea	Seychelles kestrel	I	7/1/75
F. newtoni aldabranus	Aldabra kestrel	I	7/1/75
F. peregrinus	Peregrine falcon	I	7/1/75
F. punctatus	Mauritius kestrel	I	7/1/75
F. rusticolus (except population of North America, excluding Greenland).	Gyrfalcon	I	7/1/75
Falconidae, all species in family except those in app. I.	Falcons, Caracaras	II	7/1/75
Gymnogyps californianus	California condor	I	7/1/75
Gypaetus barbatus	Lammergeier	II	2/4/77
Gyps fulvus	Griffon vulture	II	2/4/77
Haliaeetus spp. (except species in app.I)	Sea and fish eagles	II	2/4/77
H. albicilla (except subspecies listed below)	White tailed eagle	I	2/4/77
H. albicilla groenlandicus	Greenland white-tailed sea eagle	I	7/1/75
H. leucocephalus (except population listed below).	Bald eagle	I	2/4/77
H. leucocephalus leucocephalus	Southern bald eagle	I	7/1/75
Harpia harpyja	Harpy eagle	I	7/1/75
Harpyopsis novaeguineae	New Guinea harpy eagle	II	2/4/77
Milvus milvus	Red kite	II	2/4/77
Pandion haliaetus	Osprey	II	2/4/77
Pithecophaga jefferyi	Monkey-eating eagle	I	7/1/75
Sagittarius serpentarius	Secretary bird	II	2/26/76
Vultur gryphus	Andean condor	I	7/1/75
Order Galliformes:	Pheasants, Curassows, Megapodes, Hoatzins:		
Agelastes meleagrides (all parts and derivatives).	White-breasted guineafowl	III (Ghana)	2/26/76
Agriocharis ocellata (all parts and derivatives).	Ocellated turkey	III (Guatemala	4/23/81
Argusianus argus	Great argus pheasant	II	7/1/75
Catreus wallichii	Cheer pheasant	I	7/1/75
Colinus virginianus ridgwayi	Masked bobwhite	I	7/1/75
Crax blumenbachii	Red-billed curassow	I	7/1/75
C. rubra (all parts & derivatives)	Great curassow	III (Costa Rica and Guatemala).	10/28/76
Crossoptilon crossoptilon	White eared pheasant	I	7/1/75
C. mantchuricum	Brown eared pheasant	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Cyrtonyx montezumae mearnsi (Mexico population).	Mearn's harlequin quail	II	7/1/75
C. montezumae montezumae	Harlequin quail	II	7/1/75
Francolinus ochropectus	Tadjoura francolin	II	7/1/75
F. swierstrai	Sweirstra's francolin	II	7/1/75
Gallus sonneratii	Gray jungle fowl	II	7/1/75
Ithaginis cruentus	Blood pheasant	II	7/1/75
Lophophorus impejanus	Himalayan monal	I	7/1/75
L. lhuysii	Chinese monal	I	7/1/75
L. sclateri	Sclater's monal	I	7/1/75
Lophura edwardsi	Edward's pheasant	I	7/1/75
L. imperialis	Imperial pheasant	I	7/1/75
L. swinhoii	Swinhoe's pheasant	I	7/1/75
Lyrurus mlokosiewiczi	Caucasian black grouse	II	2/4/77
Macrocephalon maleo	Maleo	I	7/1/75
Megapodius freycinet abbotti	Abbott's megapode or incubator bird	II	7/1/75
M. freycinet nicobariensis	Nicobar megapode	II	7/1/75
Mitu (=*Crax*) *mitu mitu*	Mitu, Razor-billed curassow	I	7/1/75
Oreophasis derbianus	Horned guan	I	7/1/75
Ortalis vetula (all parts and derivatives)	Plain chachalaca	III (Guatemala)	4/23/81
Pavo muticus	Green peafowl	II	2/4/77
Penelope albipennis	White-winged guan	I	6/6/81
Penelopina nigra (all parts and derivatives)	Black chachalaca	III (Guatemala)	4/23/81
Pipile (=*Aburria*) *jacutinga*	Black-fronted piping-guan	I	7/1/75
P. (=*Abburia*) *pipile pipile*	Trindad white-headed curassow	I	7/1/75
Polyplectron bicalcaratum	Gray peacock pheasant	II	7/1/75
P. emphanum	Palawan peacock pheasant	I	7/1/75
P. germaini	Germain's peacock pheasant	II	7/1/75
P. malacense	Malaysian peacock pheasant	II	7/1/75
Syrmaticus ellioti	Elliot's pheasant	I	7/1/75
S. humiae	Bar-tailed pheasant	I	7/1/75
S. mikado	Mikado pheasant	I	7/1/75
Tetraogallus caspius	Caspian snowcock	I	7/1/75
T. tibetanus	Tibetan snowcock	I	7/1/75
Tragopan blythii	Blyth's tragopan	I	7/1/75
T. caboti	Cabot's tragopan	I	7/1/75
T. melanocephalus	Western tragopan	I	7/1/75
T. satyra (all parts and derivatives)	Satyr tragopan	III (Nepal)	11/16/75
Tympanuchus cupido attwateri	Attwater's greater prairie chicken	I	7/1/75
Order Gruiformes:	Cranes, Rails, Bustards:		
Anthropoides virgo	Demoiselle crane	II	7/29/83
Balearica regulorum	Crowned crane	II	7/1/75
Chlamydotis undulata	Houbara bustard	I	7/1/75
Choriotis nigriceps	Great Indian bustard	I	7/1/75
Eupodotis bengalensis	Bengal florican	I	7/1/75
Gallirallus australis hectori	Eastern weka rail	II	7/1/75
Grus americana	Whooping Crane	I	7/1/75
G. canadensis nesiotes	Cuba sandhill crane	I	7/1/75
G. canadensis pratensis	Florida sandhill crane	II	7/1/75
G. canadensis pulla	Mississippi sandhill crane	I	7/1/75
G. japonensis	Manchurian crane	I	7/1/75
G. leucogeranus	Siberian white crane	I	7/1/75
G. monacha	Hooded crane	I	7/1/75
G. nigricollis	Black necked crane	I	7/1/75
G. vipio	White-naped crane	I	7/1/75
Otis tarda	Great bustard	II	7/1/75
Pedionomus torquatus	Collared hemipode	II	6/28/79
Rhynochetos jubatus	Kagu	I	7/1/75
Tricholimnas sylvestris	Lord Howe wood rail	I	7/1/75
Turnix melanogaster	Black-breasted button quail	II	6/28/79
Order Charadriiformes:	Shorebirds, Gulls, Auks:		
Burhinus bistriatus (all parts and derivatives)	Double-striped, thick-knee, Mexican stone curlew.	III (Guatemala)	4/23/81
Larus brunnicephalus	Brown-headed gull	II	7/1/75
L relictus	Relict gull	I	7/1/75
Numenius borealis	Eskimo curlew	I	7/1/75
N. minutus	Little whimbrel	II	7/1/75
N. tenuirostris	Slender-billed curlew	I	7/1/75
Tringa guttifer	Nordmann's greenshank	I	7/1/75
Order Columbiformes:	Pigeons, Doves, Sand-grouse:		
Caloenas nicobarica	Nicobar pigeon	I	6/28/79

Species	Common name	Appendix	Date listed (month/day/year)
C. nicobarica pelewensis	Nicobar pigeon	I	7/1/75
Columbidae; all species in family native to Ghana (all parts and derivatives).	Pigeons	III (Ghana)	2/26/76
Ducula mindorensis	Mindoro imperial pigeon	I	7/1/75
Gallicolumba luzonica	Bleeding heart pigeon	II	7/1/75
Goura cristata	Common crowned pigeon	II	7/1/75
G. scheepmakeri	Maroon-breasted crowned pigeon	II	7/1/75
G. victoria	Victoria crowned pigeon	II	7/1/75
Nesoenas (=*Columba*) *mayeri* (all parts and derivatives).	Pink pigeon	III (Mauritius)	12/4/75
Order Psittaciformes:	Parrots, Parakeets, Macaws, Lories:		
All species in order except those in App. I or with earlier date in App. II and except *Melopsittacus undulatus, Nymphicus hollandicus* and *Psittacula krameri.*		II	6/6/81
Amazona arausiaca	Red-necked parrot	I	6/6/81
A. barbadensis	Yellow-shouldered parrot	I	6/6/81
A. braziliensis	Red-tailed parrot	I	6/6/81
A. guildingii	St. Vincent parrot	I	7/1/75
A. imperialis	Imperial parrot	I	7/1/75
A. leucocephala	Cuban parrot	I	7/1/75
A. pretrei pretrei	Red-spectacted parrot	I	7/1/75
A. rhodocorytha	Red-browed parrot	I	7/1/75
A. versicolor	St. Lucia parrot	I	7/1/75
A. vinacea	Vinaceous parrot	I	7/1/75
A. vittata	Puerto Rican parrot	I	7/1/75
Anodorhynchus glaucus	Glaucous macaw	I	7/1/75
A. leari	Indigo macaw	I	7/1/75
Ara ambigua	Great green macaw	II	10/28/76
A. glaucogularis	Caninde macaw	I	6/6/81
A. rubrogenys	Red-fronted macaw	I	6/6/81
A. macao	Scarlet macaw	II	10/28/76
Aratinga guarouba	Golden conure	I	7/1/75
Cacatua (*Kakatoe*) *tenuirostris*	Slender-billed cockatoo	II	2/4/77
Calyptorhynchus lathami	Glossy cockatoo	II	2/4/77
Coracopsis nigra barklyi	Seychelles vasa parrot	II	7/1/75
Cyanoliseus patagonus byroni	Patagonian conure	II	6/28/79
Cyanopsitta spixii	Spix's macaw	I	7/1/75
Cyanoramphus auriceps forbesi	Forbe's or yellow-fronted parakeet	I	7/1/75
C. malherbi	Orange-fronted parakeet	II	7/1/75
C. novaezelandiae	New Zealand or red-fronted parakeet	I	7/1/75
C. unicolor	Antipodes green parakeet	II	7/1/75
Cyclopsitta (=*Opopsitta*) *diophthalma coxeni.*	Coxen's fig parrot	I	2/4/77
Eunymphicus cornutus	Horned parakeet	II	7/1/75
Geopsittacus occidentalis	Australian night parrot	I pe	7/1/75
Neophema chrysogaster	Orange-bellied parakeet	I	7/1/75
N. splendida	Scarlet-chested parakeet	II	7/1/75
Ognorhynchus icterotis	Yellow-cheeked conure	I	6/6/81
Pezoporus wallicus	Ground parrot	I	2/4/77
Pionopsitta pileata	Red-capped or pileated parrot	I	7/1/75
Poicephalus robustus	Cape parrot	II	7/1/75
Polytelis alexandrae	Princess parrot	II	2/4/77
Probosciger aterrimus	Great black cockatoo	II	7/1/75
Prosopoeia personata	Masked or yellow-breasted musk parrot	II	7/1/75
Psephotus chrysopterygius	Golden-shouldered parakeet	I	7/1/75
P. pulcherimus	Paradise parakeet	I pe	7/1/75
P. (*Northiella*) *haematogaster narethae*	Blue-bonnet parakeet	II	2/4/77
Psittacula krameri (all parts and derivatives)	Ring-neck parakeet	III (Ghana)	2/26/76
P. krameri echo	Mauritius ring-neck parakeet	I	7/1/75
Psittacus erithacus princeps	Principe parrot	I	7/1/75
Pyrrhura cruentata	Blue-throated or ochre-marked parakeet	I	7/1/75
Rhynchopsitta pachyrhyncha	Thick-billed parrot	I	7/1/75
R, terrisi	Maroon-fronted parrot	I	6/6/81
Strigops habroptilus	Kakapo or owl parrot	I	7/1/75
Tanygnathus lucionensis	Blue-naped parrot	II	2/4/77
Order Cuculiformes:	Cuckoos, Plantain-eaters:		
Gallirex (=*Tauraco*) *porphyreolophus*	Violet-crested turaco	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Musophagidae, all species in family native to Ghana except species in app. II (all parts and derivatives).	Turacos	III (Ghana)	2/4/77
Tauraco corythaix	Knysna loury	II	2/4/77
Order Strigiformes:	Owls:		
All species except those in app. I or with earlier date in app. II.		II	6/28/79
Athene blewitti	Forest little owl, Forest spotted owlet	I	6/28/79
Bubo bubo	Eurasian eagle owl	II	2/4/77
Ninox novaeseelandiae royana	Great hawk owl	I	2/4/77
N. squamipila natalis	Moluccan hawk owl	I	2/4/77
Nyctea scandiaca	Snowy owl	II	2/4/77
Otus gurneyi	Giant scops owl	I	7/1/75
O. nudipes newtoni	Virgin Island screech owl	II	7/1/75
Strigidae, all species in family native to Ghana.	Owls	II	2/26/76
Strix butleri	Hume's wood owl	II	2/4/77
S. nebulosa	Great gray owl	II	11/16/75
Tyto soumagnei	Madagascar owl	I	2/4/77
Tytonidae, all species in family native to Ghana.	Owls	II	2/26/76
Order Apodiformes:	Swifts, Hummingbirds:		
Ramphodon (=*Glaucis*) *dohrnii*	Hook-billed hermit	I	7/1/75
Order Trogoniformes:	Trogoins:		
Pharomachrus mocinno costaricensis	Central resplendent quetzal	I	7/1/75
P. mocinno mocinno	Northern resplendent quetzal	I	7/1/75
Order Coraciiformes:	Hornbills, Kingfishers, rollers, Bee-eaters, Motmots:		
Aceros narcondami	Narcondam hornbill	II	7/1/75
Buceros bicornis	Great hornbill	II	7/1/75
B. bicornis homrai	Great Indian hornbill, Great pied horn bill.	I	7/1/75
B. hydrocorax hydrocorax	Luzon-Marinduque rufous hornbill	II	7/1/75
B. rhinoceros rhinoceros	Malay rhinoceros hornbill	II	7/1/75
Rhinoplax vigil	Helmeted hornbill	I	7/1/75
Order Piciformes:	Woodpeckers, Toucans, Jacamars, Barbets:		
Campephilus imperialis	Imperial woodpecker	I	7/1/75
Dryocopus javensis richardsi	Tristam's white-bellied woodpecker	I	7/1/75
Picus squamatus flavirostris	Green scaly-bellied woodpecker	II	7/1/75
Rhamphastos sulphuratus (all parts and derivatives).	Keel-billed toucan	III (Guatemala)	4/23/81
Order Passeriformes:	Perching birds:		
Atrichornis clamosa	Noisy scrub-bird	I	7/1/75
Dasyornis brachypterus longirostris	Rodriquez Island warbler	III (Mauritius)	12/4/75
Cotinga maculata	Banded cotinga	I	7/1/75
Dasyornis brachyterus longirostris	Western bristlebird	I	7/1/75
D. broadbenti littoralis	Western rufous bristlebird	I pe	7/1/75
Emblema oculata	Red-.eared firetail	II	6/26/79
Fringillidae, all species in family native to Ghana (all parts and derivatives).	Finches	III (Ghana)	2/26/76
Gubernatrix cristata (all parts and derivatives).	Yellow cardinal	III (Uruguay)	7/14/76
Leucopsar rothschildi	Rothschild's starling or myna	I	7/1/75
Meliphaga cassidix	Helmeted honey eater	I	7/1/75
Muscicapa (=*Niltava*) *ruecki*	Rueck's blue fly-catcher or niltava	II	7/1/75
Paradiseidae, all species in family	Birds of paradise	II	7/1/75
Picathartes gymnocephalus	Bare-headed or yellow-headed rock fowl.	I	7/1/75
P. oreas	Gray-necked or red-headed rock fowl	I	7/1/75
Pitta brachyura nympha	Fairy pitta, Blue-winged pitta	II	7/1/75
P. kochi	Koch's pitta	I	7/1/75
Ploceidae, all species in family native to Ghana (all parts and derivatives).	Weaverbirds, weaver finches	III (Ghana).	2/26/76
Phoephila cincta cincta	Black-throated or Parson finch	II	10/17/80
Pseudochelidon sirintarae	White-eyed river martin	II	7/1/75
Psophodes nigrogularis	Western whipbird	II	7/1/75
Rupicola peruviana	Andean cock-of-the-rock	II	7/1/75
R. rupicola	Guianan cock-of-the-rock	II	7/1/75
Spinus cucullatus	Red siskin	I	7/1/75
S. yarrellii	Yellow-faced siskin	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Tchitrea (*Terpsiphone*) *bourbonnensis* (all parts and derivatives).	Coq de Boise, Mascarene paradise flycatcher.	III (Mauritius)	12/4/75
Xanthopsar flavus (all parts and derivatives)	Saffron-cowled blackbird	III (Uruguay)	7/14/76
Xipholena atropurpurea	White-winged cotinga	I	7/1/75
Zosterops albogularis	White-breasted or Norfolk Island silver-eye.	I	7/1/75
CLASS REPTILIA:	REPTILES:		
Order Crocodylia:	Crocodiles, Alligators, Caimans, Gavials:		
Alligatoridae, all species in family except those in app. I or with earlier date in app. II.	Alligators, caimans	II	2/4/77
Alligator mississippiensis	American alligator	II	7/1/75
A. sinensis	Chinese alligator	I	7/1/75
Caiman crocodilus apaporiensis	Apaporis River caiman	I	7/1/75
C. crocodilus crocodilus	Common caiman	II	7/1/75
C. crocodilus yacare (= *C. yacare*)	Yacare	II	7/1/75
C. crocodilus fuscus (including C. crocodilus chiapasius).	Brown caiman	II	7/1/75
C. latirostris	Broad-snouted caiman	I	7/1/75
Crocodylidae, all species in family except those in app. I or with earlier date in app. II.	Crocodiles	II	2/4/77
Crocodylus acutus	American crocodile	I	7/1/75
C. niloticus (population of Zimbabwe resulting from ranching).	Nile Crocodile	II	7/1/75
C. cataphractus	African slender-snouted crocodile	I	7/1/75
C. intermedius	Orinoco crocodile	I	7/1/75
C. johnsoni	Johnson's crocodile	II	7/1/75
C. moreletii	Morelet's crocodile	I	7/1/75
C. niloticus	Nile crocodile	I	7/1/75
C. novaeguineae (except subspecies listed below).	New Guinea or freshwater crocodile	II	7/1/75
C. novaeguineae mindorensis	Philippine crocodile	I	7/1/75
C. palustris kimbula	Ceylon mugger crocodile	I	7/1/75
C. palustris palustris	Mugger crocodile	I	7/1/75
C. porosus, except population of Papua New Guinea.	Saltwater crocodile	I	7/1/75
C. porosus, Papua New Guinea population	Saltwater crocodile	II	7/1/75
C. rhombifer	Cuban crocodile	I	7/1/75
C. siamensis	Siamese crocodile	I	7/1/75
Gavialis gangeticus	Gavial, gharial	I	7/1/75
Melanosuchus niger	Black caiman	I	7/1/75
Osteolaemus tetraspis (except subspecies listed below).	Dwarf crocodile	I	2/4/77
O. tetraspis osborni	Dwarf crocodile	I	7/1/75
O. tetraspis tetraspis	Dwarf crocodile	I	7/1/75
Paleosuchus trigonatus	Smooth-fronted caiman	II	7/1/75
Tomistoma schlegelii	Tomistoma, False gavial	I	7/1/75
Order Testudinata:	Turtles, Tortoises:		
Batagur baska	River terrapin, Tuntong	I	7/1/75
Cheloniidae, all species in family	Sea turtles	I	7/1/75
Chersina (= *Testudo*) spp	Bow-sprit tortoises	II	7/1/75
Clemmys muhlenbergi	Bog turtle	II	7/1/75
Dermochelys coriacea	Leatherback sea turtle	I	7/1/75
Dermatemys mawii	Central American river turtle	II	6/6/81
Geochelone spp. (except species listed below).	Land tortoises	II	7/1/75
G. (= *Testudo*) *elephantopus*	Galapagos tortoises	I	7/1/75
G. (= *Testudo*) *radiata*	Madagascar radiated tortoises	I	7/1/75
G. (= *Testudo*) *yniphora*	Angulated tortoises	I	7/1/75
Geoclemys (= *Damonia*) *hamiltoni*	Spotted pond turtle	I	7/1/75
Geoemyda (= *Melanochelys or Nicoria*) *tricarinata*.	Three keeled Asian turtle	I	7/1/75
Gopherus spp. (except species listed below)	Gopher tortoises	II	7/1/75
G. flavomarginatus	Bolson tortoise	I	7/1/75
Homopus spp	African parrot-beaked tortoises	II	7/1/75
Kachuga tecta tecta	Indian sawback turtle	I	7/1/75
Kinixys spp	Hinged-back tortoise	II	7/1/75
Lissemys punctata punctata	Indian flap-shell tortoise	I	7/1/75
Malacochersus spp	Pancake tortoises	II	7/1/75
Morenia ocellata	Burmese peacock turtle	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Pelomedusa subrufa (all parts and derivatives).	Helmeted terrapin	III (Ghana)	2/26/76
Pelusios spp. all species native to Ghana (all parts and derivatives).	African mud turtle	III (Ghana)	2/26/76
Podocnemis spp	South African turtle	II	7/1/75
Psammobates (= *Testudo*) *geometricus*	Geometric turtle	I	2/4/77
Pseudemydura umbrina	Short-necked swamp turtle	I	7/1/75
Pyxis spp	Madagascar spider tortoises	II	7/1/75
Terrapene coahuila	Aquatic box turtle	I	7/1/75
Testudinidae, all species except those in app. I or with earlier date in app. II.	Land tortoises	II	2/4/77
Testudo spp	Land tortoises	II	7/1/75
Trionyx ater	Cuatro Cienegas softshell turtle	I	7/1/75
T. gangeticus	Indian softshell turtle	I	7/1/75
T. hurum	Peacock softshell turtle	I	7/1/75
T. nigricans	Black softshell turtle	I	7/1/75
T. triunguis (all parts and derivatives)	Three-clawed turtle	III (Ghana)	2/26/76
Order Rhynchocephalia:	Tuatara:		
Sphenodon punctatus	Tuatara	I	7/1/75
Order Squamata:	Lizards, Snakes:		
Acrantophis spp	Madagascar boas	I	2/4/77
Amblyrhynchus cristatus	Galapagos marine iguana	II	7/1/75
Atretium schistosum	Olive keelback water snake	III (India)	2/12/84
Boidae, all species except those in app. I or with earlier date in app. II.	Boa constrictors, Pythons	II	2/4/77
Bolyeria spp	Round Island boa	I	2/4/77
Brachylophus spp	Fiji iguanas	I	6/6/81
Casarea spp	Round Island boa	I	2/4/77
Cerberus rhynchops	Dog-faced water snake	III (India)	2/12/84
Chamaeleo spp	Chamaeleons	II	2/4/77
Cnemidophorus hyperythrus	Orange-throated whiptail lizard	II	7/1/75
Conolophus spp (except species listed below).	Land lizards	II	2/4/77
C. pallidus	Barrington Island land lizard	II	7/1/75
C. subcristatus	Galapagos land iguana	II	7/1/75
Constrictor constrictor	Boa constrictor	II	7/1/75
Cordylus spp	Girdled lizards	II	6/6/81
Crocodilurus lacertinus	Dragon lizardet	II	2/4/77
Cyclagras (= *Hydrodynastes*) *gigas*	South American false water cobra	II	7/1/75
Cyclura spp	Ground iguanas	I	2/4/77
Cyrtodactylus serpensinsula	Serpent Island gecko	II	2/4/77
Dracaena guianensis	Caiman lizard	II	2/4/77
Elachistodon westermanni	Indian egg-eating snake	II	7/1/75
Epicrates cenchris cenchris	Rainbow boa	II	7/1/75
E. monensis	Mona boa	I	2/4/77
E. inornatus	Puerto Rican boa	I	2/4/77
E. subflavus	Jamaican boa	I	7/1/75
Eunectes notaeus	Yellow anaconda	II	7/1/75
Heloderma spp	Beaded lizards, Gila monster	II	7/1/75
Iguana spp	Iguanas	II	2/4/77
Naja naja	India cobra	III (India)	2/12/84
Natrix piscator	Checkered keelback water snake	III (India)	2/12/84
Ophiophagus hannah	King cobra	III (India)	2/12/84
Paradelma orientalis	Snake lizard	II	2/4/77
Phelsuma spp	Day geckos	II	2/4/77
Phrynosoma coronatum blainvillei	San Diego horned lizard	II	7/1/75
Pseudoboa (= *Clelia*) *cloelia*	Mussurana snake	II	7/1/75
Pseudocordylus spp	Crag lizards	II	6/6/81
Ptyas mucosus	Indian rat snake, whipsnake	III (India)	2/12/84
Python spp. (except subspecies listed below).	Pythons	II	7/1/75
P. molurus molurus	Indian python	I	7/1/75
Sanzinia madagascariensis	Tree boa	I	2/4/77
Sauromalus varius	San Esteban Island Chuckwalla	I	6/6/81
Thamnophis elegans (= *couchi*) *hammondi*	Two-striped garter snake	II	7/1/75
Tupinambis spp	Tegu lizards	II	2/4/77
Uromastyx spp	Spiny-tailed lizards	II	2/4/77
Varanus spp. (all species except those in app. I).	Monitor lizards	II	7/1/75
V. bengalensis	Bengal monitor	I	7/1/75
V. flavescens	Yellow monitor	I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
V. griseus	Desert monitor	I	7/1/75
V. komodoensis	Komodo Island monitor, Komodo dragon.	I	7/1/75
Vipera russellii	Russell's viper	III (India)	2/12/84
CLASS AMPHIBIA:	AMPHIBIANS:		
Order Caudata:	Salamanders:		
Ambystoma dumerilii	Lake Patzcuaro salamander	II	7/1/75
A. lemaensis	Lake Lerma salamander	II	7/1/75
A. mexicanum	Axoloti	II	7/1/75
Andrias (=*Megalobatrachus*) *davidianus*	Chinese giant salamander	I	7/1/75
A. (=*Megalobatrachus*) *Japonicus*	Japanese giant salamander	I	7/1/75
Order Anura:	Frogs, Toads:		
Atelopus varius zeteki	Panamanian golden frog	I	7/1/75
Bufo periglens	Monteverde toad	I	7/1/75
B. retiformis	Sonoran green toad	II	7/1/75
B. superciliaris	Cameroon toad	I	7/1/75
Nectophrynoides spp	African viviparous toads	I	7/1/75
CLASS OSTEICHTHYES:	BONY FISHES:		
Order Acipenseriformes:	Sturgeons:		
Acipenser brevirostrum	Short-nosed sturgeon	I	7/1/75
A. oxyrhynchus	Atlantic sturgeon	II	7/1/75
A. sturio	Baltic sturgeon	I	7/1/75
Order Osteoglossiformes:	Bonytongues:		
Arapaima gigas	Arapaima	II	7/1/75
Scleropages formosus	Asiatic bonytongue	I	7/1/75
Order Salmoniformes:	Salmon, Trout:		
Salmo chrysogaster	Mexican golden trout	II	7/1/75
Stenodus leucichthys leucichthys	Beloribitsa	II	7/1/75
Order Cypriniformes:			
Caecobarbus geertsi	African or Congo blind barb	II	6/6/81
Chasmistes cujus	Cui-ui	I	7/1/75
Plagopterus argentissimus	Woundfin	II	7/1/75
Probarbus jullieni	Ikan temolek, Pla eesok	I	7/1/75
Ptychocheilus lucius	Colorado River squawfish	II	7/1/75
Order Atheriniformes:	Livebearers:		
Cynolebias constanciae	Annual tropical killifish	II	7/1/75
C. marmoratus	Annual tropical killifish	II	7/1/75
C. minimus	Annual tropical killifish	II	7/1/75
C. opalescens	Annual tropical killifish	II	7/1/75
C. splendens	Annual tropical killifish	II	7/1/75
Xiphophorus couchianus	Monterey platyfish	II	7/1/75
Order Coelacanthiformes:	Coelacanth:		
Latimeria chalumnae	Coelacanth, Gombessa	II	7/1/75
Order Ceratodiformes:	Lungfishes:		
Neoceratodus forsteri	Australian lungfish	II	7/1/75
Order Siluriformes:	Catfishes:		
Pangasianodon gigas	Thailand giant catfish	I	7/1/75
Order Perciformes:	Perch-like fishes:		
Cynoscion macdonaldi	Totoaba	I	2/4/77
PHYLUM MOLLUSCA:	MOLLUSCS:		
Class Pelecypoda (=Bivalvia):	Clams, Mussels:		
Conradilla caelata	Birdwing pearly mussel	I	7/1/75
Cyprogenia aberti	Edible pearly mussel	II	7/1/75
Dromus dromas	Dromedary pearly mussel	II	7/1/75
Epioblasma (=*Dysnomia or Plagiola*) *florentina curtisi*.	Curtis' pearly mussel	I	7/1/75
E. florentina florentina	Yellow-blossom pearly mussel	I	7/1/75
E. sampsoni	Sampson's pearly mussel	I	7/1/75
E. sulcata perobliqua	White cat's paw mussel	I	7/1/75
E. torulosa gubernaculum	Green-blossom pearly mussel	I	7/1/75
E. torulosa rangiana	Tan-blossom pearly mussel	II	7/1/75
E. torulosa torulosa	Tuberculed-blossom pearly mussel	I	7/1/75
E. turgidula	Turgid-blossom pearly mussel	I	7/1/75
E. walkeri	Brown-blossom pearly mussel	I	7/1/75
Fusconaia cuneolus	Fine-rayed pigtoe mussel	I	7/1/75
F. edgariana	Shiny pigtoe mussel	I	7/1/75
F. subrotunda	Long solid mussel	II	7/1/75
Lampsilis brevicula	Ozark lamp pearly mussel	I	7/1/75
L. higginsi	Higgin's eye mussel	I	7/1/75
L. orbiculata orbiculata	Pink mucket mussel	I	7/1/75
L. satura	Plain pocketbook mussel	I	7/1/75

Species	Common name	Appendix	Date listed (month/ day/year)
I.. virescens	Alabama lamp pearly mussel	I	7/1/75
Lexingtonia dolabelloides	Slab-side pearly mussel	II	7/1/75
Mytilus chorus	Chilean mussel	II	6/28/79
Plethobasus cicatricosus	White wartyback mussel	I	7/1/75
P. cooperianus	Orange-footed pimpleback mussel	I	7/1/75
Pleurobema clava	Club pearly mussel	II	7/1/75
P. plenum	Rough pigtoe mussel	I	7/1/75
Potamilus (=*Proptera*) *capax*	Fat pocketbook mussel	I	7/1/75
Quadrula intermedia	Cumberland monkey-face mussel	I	7/1/75
Q. sparsa	Appalachian monkey-face mussel	I	7/1/75
Toxolasma (=*Carunculina*) *cylindrella*	Pale lilliput pearly mussel	I	7/1/75
Tridacna deras	Giant clam	II	5/29/83
T. gigas	Giant clam	II	5/29/83
Unio (=*Megalonaias*) *nickliniana*	Nicklin's pearly mussel	I	7/1/75
U. (=*Lampsilis* or *Cyrtonaias*) *tampicoensis tecomatensis*	Tampico pearly mussel	I	7/1/75
Villosa (=*Micromya*) *trabalis*	Cumberland bean mussel	I	7/1/75
Class Gastropoda:	Snails:		
Coahuilix hubbsi	Coahuilix de Hubbs Caracol	II	7/1/75
Cochliopina milleri	Cochliopina de Miller Caracol	II	7/1/75
Durangonella coahuilae	Durangonella de Coahuila Caracol	II	7/1/75
Mexipyrgus carranzae	Mexipyrgus de Carranza Caracol	II	7/1/75
M. churinceanus	Mexipyrgus de Churince Caracol	II	7/1/75
M. escobedae	Mexipyrgus de Escobeda Caracol	II	7/1/75
M. lugoi	Mexipyrgus de Lugo Caracol	II	7/1/75
M. mojarralis	Mexipyrgus del Oeste del Mojarral Caracol.	II	7/1/75
M. multilineatus	Mexipyrgus del Este del Mojarral Caracol.	II	7/1/75
Mexithauma quadripaludium	Mexithauma de Cuatro Cienegas Caracol.	II	7/1/75
Nymphophilus minckleyi	Nymphophilus de Minckley Caracol	II	7/1/75
Paludiscala caramba	Paludiscala Maravillosa Caracol	II	7/1/75
Papustyla (=*Papuina*) *pulcherrima*	Manus Island tree snail	II	7/1/75
Paryphanta spp. (New Zealand species only).	New Zealand amber snails	II	7/1/75
PHYLUM ARTHROPODA:	ARTHROPODS:		
Class Insecta:	Insects:		
Ornithoptera spp.	Birdwing butterflies	II	2/16/79
O. alexandrae	Birdwing butterfly	II	2/4/77
O. allotei	Birdwing butterfly	II	2/4/77
O. chimaera	Birdwing butterfly	II	2/4/77
O. goliath	Birdwing butterfly	II	2/4/77
O. meridionalis	Birdwing butterfly	II	2/4/77
O. paradisea	Paradise birdwing butterfly	II	2/4/77
O. victoriae	Queen Victoria's birdwing butterfly	II	2/4/77
Parnassius apollo	Mountain apollo butterfly	II	2/4/77
P. apollo apollo	Mountain apollo butterfly	II	7/1/75
Trogonoptera spp.	Birdwing butterflies	II	2/16/79
Troides spp	Birdwing butterflies	II	2/16/79
PHYLUM COELENTERATA:	COELENTERATES:		
Class Anthozoa:	Corals, Anemones:		
Order Antipatharia:	Black corals		
All species in order		II	6/6/81
PLANT KINGDOM:	PLANTS:		
Family Agavaceae:	Agaves:		
Agave arizonica	Naw river agave	I	7/29/83
Agave parviflora	Santa Cruz striped agave	I	7/29/83
Agave victoriae-reginae	Queen Victoria agave	II	7/29/83
Nolina interrata	Dehesa beargrass	I	7/29/83
Family Apocynaceae:	Dogbanes:		
Pachypodium spp	Elephant's trunk	II	7/1/75
P. namaquanum	Half-men, Ghost-men	I	7/1/75
Family Araceae:	Arums:		
Alocasia sanderana		I	7/1/75
A. zebrina		I	7/1/75
Family Araliaceae:	Ginsengs:		
Panax quinquefolius (*roots*)	American ginseng	II	7/1/75
Family Araucariaceae:	Monkey-puzzle trees:		
Araucaria araucana (timber), all populations except that of Chile.	Monkey-puzzle tree	II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
A. araucana, population of Chile	Monkey-puzzle tree	I	7/1/75
Family Asclepiadaceae:	Milkweeds:		
Ceropegia spp	Ceropegias	II	6/28/79
Frerea indica		II	6/28/79
Family Byblidiaceae:			
Byblis spp	Byblis, Rainbow plants	II	6/28/79
Family Cactaceae:	Cacti:		
All species in the Americas (except those in App. I).		II	7/1/75
Ancistrocactus tobuschii	Tobusch's fishhook cactus	I	7/1/75
Ariocarpus agavoides	Living rock cactus	I	7/1/75
A. scapharostrus	Living rock cactus	I	7/1/75
A. Trigonus	Chaute	I	7/1/75
Aztekium ritteri	Aztec cactus	I	7/1/75
Backebergia militaris	Teddy-bear cactus, military cap	I	7/1/75
Coryphantha minima	Nellie's cory cactus	I	7/1/75
C. sneedii	Pincushion cactus	I	7/1/75
C. werdermannii	Jabali pincushion cactus	I	7/1/75
Echinocereus lindsayi	Lindsay's hedgehog cactus	I	7/1/75
Leuchtenbergia principis	Agave cactus, prism cactus	I	7/1/75
Lobeira macdougallii	MacDougall's cactus, prism cactus	I	7/1/75
Mammillaria pectinifera (= *Solisia pectinata*	Conchilinque	I	7/1/75
M. plumosa	Feather cactus	I	7/1/75
M. solisioides	Pitayita	I	7/1/75
Neolloydia erectocentra		I	7/1/75
N. mariposensis	Mariposa cactus	I	7/1/75
Obregonia denegrii	Artichoke cactus	I	7/1/75
Pediocactus bradyi	Brady's pincushion cactus	I	7/1/75
P. despainii	San Rafael Swell cactus	I	7/1/75
P. knowltonii	Knowlton's cactus	I	7/1/75
P. papyracanthus	Grama grass cactus	I	7/1/75
P. paradinei	Houserock Valley cactus	I	7/1/75
P. peeblesianus	Peeble's Navajo cactus	I	7/1/75
P. sileri	Siler's pincushion cactus	I	7/1/75
P. winkleri	Winkler's cactus	I	7/1/75
Pelecyphora aselliformis	Hatchet cactus, peyotillo	I	7/1/75
P. (= *Encephalocarpus*) *strobiliformis*	Pinecone cactus	I	7/1/75
Rhipsalis spp	Mistletoe cacti	II	7/1/75
Sclerocactus glaucus	Uinta Basin hookless cactus	I	7/1/75
S. mesae-verdae	Mesa Verde cactus	I	7/1/75
S. pubispinus	Great Basin fishhook cactus	I	7/1/75
Sclerocactus wrightiae	Wright's fishhook cactus	I	7/1/75
Strombocactus disciformis	Disc cactus, top cactus	I	7/1/75
Turbinicarpus spp	Turbinicarpus	I	7/1/75
Wilcoxia schmollii	Lamb's-tail cactus	I	7/1/75
Family Caryocaraceae:	Caryocars:		
Caryocar costaricense		I	7/1/75
Family Caryophyllaceae:	Pinks:		
Gymnocarpos przewalskii		I	7/1/75
Melandrium mongolicus		I	7/1/75
Silene mongolica		I	7/1/75
Stellaria pulvinata		I	7/1/75
Family Cephalotaceae:			
Cephalotus follicularis	West Australian pitcher plant	II	6/28/79
Family Chloanthaceae:			
Populations of all species in Australia	Lambs tails	II	6/28/79
Family Compositae—(= Asteraceae):	Composites, Asters:		
Saussurea lappa (roots)	Costus, Kuth roots	II	7/1/75
Family Crassulaceae:			
Dudleya stolonifera	Laguna Beach dudleya	I	7/29/83
Dudleya traskiae	Santa Barbara Island dudleya	I	7/29/83
Family Cupressaceae:	Cypresses:		
Fitzroya cupressoides (coastal population of Chile).	Fitzroya, Alerce	II	7/1/75
Pilgerodendron uviferum	Pilgerodendron	I	7/1/75
Family Cyatheaceae:	Tree ferns:		
All species in the family (trunks) except those with earlier date.		II	2/4/77
Cyathea (*Hemitelia*) *capensis* (trunks)		II	7/1/75
C. dredgei (trunks)		II	7/1/75
C. mexicana (trunks)		II	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
C. (*Alsophila*) *salvinii* (trunks)		II	7/1/75
Family Cycadaceae:	Cycads:		
All species except that listed in app. I (trunks).		II	2/4/77
Microcycas calocoma	Palma Corcho, Microcycas	I	7/1/79
Family Diapensiaceae:			
Shortia galacifolia	Oconee bells	II	7/29/83
Family Dicksoniaceae:	Tree ferns:		
All species in the family (trunks)		II	2/4/77
Family Didiereaceae:			2/4/77
All species in the family		II	2/4/77
Family Dioscoreaceae:	Yams:		
Dioscorea deltoidea (roots)	Kniss, Kurta	II	7/1/75
Family Ericaceae:			
Kalmia cuneata	White wicky	II	7/29/83
Family Euphorbiaceae:	Spurges:		
Euphorbia spp. excluding non-succulent species.	Euphorbias	II	7/1/75
Family Fagaceae:	Beeches:		
Quercus copeyensis (timber)	Roble, Copey oak	II	7/1/75
Family Fouquieriaceae:			
Fouquieria columnaris	Boojum tree	II	7/29/83
Fouquieria faciculata	Abrol de Barril	I	7/29/83
Feuquieria purpusii	n.c.n.	I	7/29/83
Family Gentianaceae:	Gentians:		
Prepusa hookeriana	Scarlet-flowered prepusa	I	7/1/75
Family Gnetaceae:	Gnetums:		
Gnetum montanum (all parts and derivatives).		III (Nepal)	11/16/75
Family Haemodoraceae:	Bloodworts:		
Anigozanthos spp	Kangaroo paws	II	6/28/79
Macropidia fuliginosa	Black kangaroo paw	II	6/28/79
Family Humiriaceae:			
Vantanea barbourii	Ira chiricana	I	7/1/75
Family Juglandaceae:	Walnuts:		
Engelhardtia pterocarpa	Gavilan	I	7/1/75
Family Leguminosae—(=Fabaceae):	Peas, Pulse:		
Ammopiptanthus mongolicum		I	7/1/75
Cynometra hemitomophylla	Guapinol negro	I	7/1/75
Platymiscium pleiostachyum	Granadillo, Nambar	I	7/1/75
Tachigalia versicolor	Cana fistula	I	7/1/75
Thermopsis mongolica		II	7/1/75
Family Liliaceae:	Lilies, Aloes:		
Aloe spp., all species except those in app. I	Aloes	II	7/1/75
A. albida		I	7/1/75
A. pillansii	Boomaalwyn	I	7/1/75
A. polyphylla	Spiral aloe	I	7/1/75
A. thorncroftii		I	7/1/75
A. vossii		I	7/1/75
Family Magnoliaceae:	Magnolias:		
Talauma hodgsonii (all parts and derivatives).		III (Nepal)	11/16/75
Family Melastomataceae:	Meadow-Beauties:		
Lavoisiera itambana		I	7/1/75
Family Meliaceae:	Mahoganies:		
Guarea longipeticola	Cola de pava	I	7/1/75
Swietenia humilis (timber)	Cabana, Mexican mahogany	II	7/1/75
Family Moraceae:	Mulberries:		
Batocarpus costaricensis	Ojoche macho	I	7/1/75
Family Nepenthaceae:	Old world pitcher plants:		
Nepenthes rajah	Giant pitcher plant	I	6/5/81
Family Orchidaceae:	Orchids:		
All species except those in app. I		II	7/1/75
Cattleya skinneri	Guaria morada	I	7/1/75
C. trianae	Christmas orchid	I	7/1/75
Didiciea cunninghamii		I	7/1/75
Laelia jongheana		I	7/1/75
L. lobata		I	7/1/75
Lycaste virginalis var. *alba*	White nun, Monja blanca	I	7/1/75
Peristeria elata	Holy Ghost, Dove orchid	I	7/1/75
Renanthera imschootiana		I	7/1/75

Species	Common name	Appendix	Date listed (month/day/year)
Vanda coerulea	Blue vanda	I	7/1/75
Family Palmae (Arecaceae):	Palms:		
Areca ipot		II	7/1/75
Chrysalidocarpus decipiens		II	2/4/77
C. lutescens	Yellow palm, Areca palm, Butterfly palm.	II	2/4/77
Neodypsis decaryi		II	7/1/75
Phoenix hanceana var. *philippinensis*		II	7/1/75
Zalacca clemensiana		II	7/1/75
Family Papaveraceae:	Poppies:		
Meconopsis regia (all parts and derivatives)		III (Nepal)	11/16/75
Family Pinaceae:	Pine, firs:		
A. nebrodensis	Tronco nudo	I	7/1/75
Family Podocarpaceae:	Podocarps:		
Podocarpus costalis		I	7/1/75
P. nerifolius (all parts and derivatives)		III (Nepal)	11/16/75
P. parlatorei	Parlatore's podocarp, Monteromero	I	7/1/75
Family Portulacaceae:	Portulacas:		
Anacampseros spp		II	7/1/75
Lewisia cotyledon	Siskiyou lewisia	II	7/29/83
L. maguirei	Maguire's lewisia	II	7/29/83
L. serrata	Saw-toothed lewisia	II	7/29/83
L. tweedyi	Tweedy's lewisia	II	7/29/83
Family Primulaceae:	Primroses:		
Cyclamen spp	Cyclamens	II	7/1/75
Family Proteaceae:	Silk oaks:		
Banksia spp	Banksias	II	6/28/79
Conospermum spp	Smoke bushes	II	6/28/79
Dryandra formosa	Showy dryandra	II	6/28/79
D. polycephala		II	6/28/79
Orothamnus zeyheri	Marsh rose	I	7/1/75
Protea odorata	Ground rose	I	7/1/75
Xylomelum spp	Woody pears	II	6/28/79
Family Rubiaceae:	Madders:		
Balmea stormiae	Ayuque	I	7/1/75
Family Rutaceae:	Boronias, Rues:		
Boronia spp	Boronia	II	6/28/79
Geleznowia verrucosa		II	6/28/79
Crowea spp	Crowea	II	6/28/79
Family Sarraceniaceae:	Pitcher plants:		
Darlingtonia californica	California pitcher plant, Cobra lily	II	6/6/81
Sarracenia alabamensis alabamensis	Alabama canebrake pitcher plant	I	6/6/81
S. jonesii	Mountain sweet pitcher plant	I	6/6/81
S. oreophila	Green pitcher plant	I	6/6/81
Family Stangeriaceae:			
All species except that in app. I		II	2/4/77
Stangeria eriopus	Fern-leafed Stangeria	I	7/1/75
Family Sterculiaceae:	Sterculias:		
Basiloxylon excelsum (timber)		II	7/1/75
Family Tetracentraceae:	Tetracentrons:		
Tetracentron spp. (all parts and derivatives)		III (Nepal)	11/16/75
Family Thymelaeaceae:	Mezereums:		
Pimelea physodes	Qualup bell	II	6/28/79
Family Verbenaceae:	Verbenas:		
Caryopteris mongolica		II	7/1/75
Family Welwitschiaceae:	Welwitschias:		
All species except that in app. I		II	2/4/77
Welwitschia bainesii	Welwitschia	I	7/1/75
Family Zamiaceae:	Cycads:		
All species except those in app. I		II	2/4/77
Encephalartos spp	Bread palms, African cycads	I	7/1/75
Family Zingiberaceae:	Gingers:		
Hedychium philippinense	Philippine garland flower	I	7/1/75
Family Zygophyllaceae:	Caltrops:		
Guaiacum sanctum (timber)	Lignum-vitae	II	7/1/75

[46 FR 44661, Sept. 4, 1981; 46 FR 58088, Nov. 30, 1981, as amended at 48 FR 45260, Oct. 4, 1983; 49 FR 13540, Apr. 5, 1984]

Subpart D—Public Participation in the Development of Negotiating Positions for Meetings of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora; Federal Agency Consultation

SOURCE: 45 FR 83238, Dec. 18, 1980, unless otherwise noted.

§ 23.31 Purpose of regulations.

The regulation contained in this subpart sets out procedures for participation of the public and consultation with appropriate Federal agencies in the Service's process of developing negotiating positions to be used by the representative of the United States to meetings of the Conference of the Parties to the Convention provided for by Article XI of the Convention.

§ 23.32 Notice of meeting of Conference of the Parties to the Convention.

(a) Upon receipt of a notice of a meeting to the Conference of the Parties to the Convention, the director shall publish in the FEDERAL REGISTER a notice setting forth the time and place of the meeting, and the proposed agenda, and inviting the public to comment and provide information on agenda items including, when appropriate, suggestions for additional agenda items.

(b) Upon receipt from the CITES Secretariat of a notice of additional agenda items, the Director shall publish in the FEDERAL REGISTER a notice inviting the public to comment and provide information on such items.

§ 23.33 Notice of proposed negotiating positions.

Subsequent to the comment period of the notice of meeting of the Conference of the Parties to the Convention, the Director shall publish in the FEDERAL REGISTER a notice of proposed negotiating positions setting forth a summary of the information and comments received in response to any of the notices mentioned in § 23.33, the negotiating positions which the Service proposes to use at the meetings of the Conference of the Parties to the Convention, and the basis thereof, and inviting information and comments on the proposed negotiating positions. The notice will also set forth the time and place of at least one public meeting to provide information and comments on the proposed negotiating positions of the Service.

§ 23.34 Public meetings.

The Service shall hold at least one public meeting to enable interested persons to provide information and comments on the proposed agenda and at least one such public meeting on the proposed negotiating positions of the Service. Written statements may be submitted to the Service before and at the meeting. Appointments to speak at the meetings may be made with the Federal Wildlife Permit Office, Washington, D.C. 20240 (703/235-2418). Participants without prior appointments will be given an opportunity to speak to the extent time allows following speakers with appointments.

§ 23.35 Notice of negotiating positions.

Subsequent to the comment period of the notice of proposed negotiating positions, and after all associated public meetings have been held, the Director shall publish in the FEDERAL REGISTER a notice setting forth (a) a summary of the information and comments received in response to the notice of proposed negotiationg positions, (b) a summary of negotiating positions of the Service to be used by the representative of the United States to the meeting of the Conference of the Parties to the Convention, and (c) the basis of such negotiating positions.

§ 23.36 Schedule of public meetings and notices.

The Director shall publish in the FEDERAL REGISTER a schedule, subject to change and modification, of all public meetings and notices related to preparation of negotiating positions for meetings of the Conference of the Parties to the Convention.

§ 23.37 Federal agency consultation.

The Service shall consult with appropriate Federal agencies in the development of negotiating positions.

§ 23.38 Modifications of procedures and negotiating positions.

(a) Any of the procedures in §§ 23.32 through 23.36 may be modified or suspended by the Director on notice published in the FEDERAL REGISTER where to follow the procedures would interfere with the timely or appropriate development of negotiating positions.

(b) Any of the negotiating positions set forth in a notice of negotiating positions may be modified, reversed or abandoned by the United States representative to a meeting of the Conference of the Parties to the Convention where to do so would be in the best interests of the United States.

§ 23.39 Notice of availability of official report.

After any meeting of the Conference of the Parties to the Convention attended by a United States representative, the Service shall publish a notice of availability of the official report of such representative and set forth how and where copies of such report can be obtained.

Subpart E—Scientific Authority Advice [Reserved]

Subpart F—Export of Certain Species

SOURCE: 45 FR 80446, Dec. 4, 1980, unless otherwise noted.

§ 23.51 American ginseng (Panax quinquefolius).

State populations for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1978 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting.

For further information see: 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

(b) *1979 Harvest:* Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting. Wild roots must be certified by the state as legally collected. For further information see: 44 FR 25384, Apr. 30, 1979; 44 FR 3107, June 1, 1979; and 44 FR 47912, Aug. 15, 1979.

(c) *1980 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, New York, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state or origin and season of collecting. Wild and cultivated roots must be certified by the state as legally collected, and such certification must be presented upon export.

(d) *1981 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Vermont (artificially propagated ginseng only), Virginia, West Virginia, Wisconsin.

Condition on findings: Roots must be documented as to state of origin and season of collecting. Wild and cultivated roots must be certified by the state as legally collected and such certification must be presented upon export. Vermont is approved for export of artificially propagated ginseng roots only.

(e) *1982-1984 harvests* (wild and cultivated roots for each year unless noted): Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee (wild and cultivated for 1982 and 1983, cultivated only for 1984), Vermont (cultivated only for 1982 and 1983, wild and cultivated for 1984), Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to State of origin and season of collection. Wild and artificially propagated roots must be certified by the State as legally collected and such certification must be presented upon export.

(f) *1985-1985 harvests* (wild and cultivated roots for each year unless noted): Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin.

Conditions on export: Roots must be documented as to State of origin, season of collection, and dry or green (fresh) weight. The State must certify whether roots originated in that State, are wild or cultivated (artificially propagated), and were legally obtained, and such certification must be presented upon export. The State must maintain a ginseng program, as described by the Service in the 1985 rule; an annual report for the preceding harvest season should reach the Service by May 31.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 49 FR 34023, Aug. 24, 1984; 50 FR 39696, Sept. 30, 1985]

§ 23.52 Bobcat (Lynx rufus).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1977-78 Harvest:* Alabama (Quota 4,000), Arizona (Q 8,000), Arkansas (Q 3,000), California (Q 6,000), Colorado (Q 4,000), Florida (Q 3,500), Georgia (Q 4,000), Idaho (Q 1,475), Louisiana (Q 4,000), Maine (Q 500), Massachusetts (Q 50), Michigan (Q 350), Minnesota (Q 150), Mississippi (Q 4,000), Montana (Q 1,070), Nebraska (Q 400), Nevada (Q 2,225), New Mexico (Q 6,000), New York (Q 225), North Carolina (Q 800), North Dakota (Q 165), Oregon (Q 3,000), South Dakota (Q 500), Tennessee (Q 1,000), Texas (Q 10,000), Vermont (Q 200), Virginia (Q 1,500), Washington (Q 6,000), West Virginia (Q 500), Wisconsin (Q 300), Wyoming (Q 2,000), Navajo Nation (Q 500).

For further information: See 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978-79 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico (Q 6,000), New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming (Q 2,000) and the Navajo Nation.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

(c) *1979-80 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, [Florida], Georgia, Idaho, Kansas, Louisiana, Maine, [Massachusetts], Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, [New Mexico (Q 6,000)], New York, North Carolina, [North Dakota], Oklahoma, Oregon [eastern portion], South Carolina, South Dakota, Tennessee, Texas [high plains ecological area], Utah, Vermont, Virginia, Washington, West Virginia, [Wisconsin], Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service. The U.S. District Court for the District of Columbia has enjoined export of bobcat pelts harvested in 1979-80 season in those states or portions of states named above in brackets.

For further information: See 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979; and 45 FR 60455, Sept. 12, 1980.

(d) *1980-81 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampsire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

(e) *1981-82 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Klamath Tribe, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service. The States of Nebraska, New Mexico, North Carolina, and Utah should not exceed their harvest level objectives for the 1981-82 season.

(f) [Reserved]

(g) *1982-83 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved and attached under conditions established by the Service.

(h) *1983-84 and Subsequent Harvests:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Klamath Tribe, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Navajo Nation, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Penobscot Nation, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983-84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 48 FR 16498, Apr. 18, 1983; 49 FR 594, Jan. 5, 1984]

§ 23.53 River otter (Lutra canadensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1977-78 Harvest:* Alabama (Quota 1,500), Alaska (open), Arkansas (Q 400), Connecticut (Q 100), Delaware (Q 60), Florida (Q 6,000), Georgia (Q 4,000), Louisiana (Q 7,500), Maine (Q 600), Maryland (Q 165), Massachusetts (Q 68), Michigan (Q 810), Minnesota (Q 700), Mississippi (Q 350), Montana (Q 36), New Hampshire (Q 200), New York (Q 700), North Carolina (Q 1,200), Oregon (Q 335), Rhode Island (Q 15), South Carolina (Q 650), Vermont (Q 50), Virginia (Q 585), Washington (Q 770), Wisconsin (Q 1,200).

For further information: See 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978-79 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, Rhode Island, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

(c) *1979-80 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Conditions on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

(d) *1980-81:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

(e) *1981-82 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

(f) *1982-83 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved by the Service and attached under conditions established by the Service.

(g) *1983-84 and Subsequent Harvests:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, New York, North Carolina, Oregon, Penobscot Nation, South Carolina, Vermont, Virginia, Washington, and Wisconsin.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983-84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 47 FR 54970, Dec. 7, 1982; 49 FR 594, Jan. 5, 1984]

§ 23.54 Lynx (Lynx canadensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1977-78 Harvest:* Alaska (open), Idaho (Quota 25), Minnesota (Q 25), Montana (Q 200), Washington (Q 35).

For further information: See 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978-79 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978, 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978, and 43 FR 39305, Sept. 1, 1978.

(c) *1979-80 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Conditions on findings: Pelts must be clearly identified as to state of origin and state of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, Apr. 30, 1979; 44 FR 31585, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

(d) *1980-81 Harvest:* Alaska, Minnesota, Montana.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

(e) *1981-82 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

(f) *1982-83 Harvest:* Alaska, Idaho, Minnesota, Montana, and Washington.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved by the Service and attached under conditions established by the Service.

(g) *1983-84 and Subsequent Harvests:* Alaska, Idaho, Minnesota, Montana, and Washington.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: for the 1983-84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 47 FR 54970, Dec. 7, 1982; 49 FR 594, Jan. 5, 1984]

§ 23.55 Gray wolf (Canis lupus).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1977-78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978-79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979-80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

(d) *1980-81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(e) *1981-82 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the State of Alaska.

(f) *1982-83 Harvest:* Alaska.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved by the Service and attached under conditions established by the Service.

(g) *1983-84 and Subsequent Harvests:* Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved and attached under conditions established by the Service. Exception to tagging requirement: for the 1983-84 and previous seasons, finished furs and fully manufactured fur products may be exported from the U.S. when accompanied by the State tags removed in a manner described by the Service from pelts contained in the products, such tags must be removed by cutting the tag strap on the female side next to the locking socket of the tag so that the locking socket and locking tip remain joined, and such tags must be surrendered to the Service prior to export.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 47 FR 54970, Dec. 7, 1982; 49 FR 594, Jan. 5, 1984]

§ 23.56 Brown bear (Ursus arctos).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1977-78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978-79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979-80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

(d) *1980-81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(e) *1981-82 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the State of Alaska.

(f) *1982-83 Harvest:* Alaska.

Condition on export: Each pelt must be clearly identified as to state of origin and season of taking by a permanently attached state tag of a type approved by the Service and attached under conditions established by the Service.

(g) *1983-84 and Subsequent Harvests:* Alaska.

Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered State tag of a type approved by the Service and attached under conditions established by the Service.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 47 FR 54971, Dec. 7, 1982; 49 FR 595, Jan. 5, 1984]

§ 23.57 American alligator (Alligator mississippiensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) *1979 and Previous Harvest:* Florida, Louisiana.

(b) *1980-81 Harvest:* Florida, Louisiana.

(c) *1981-82 Harvest:* Florida, Louisiana.

(d) *1982-83 Harvest:* Florida, Louisiana.

Condition on export: Hides must be clearly identified as to state of origin and year of take and must be tagged by a permanently attached state tag of a type approved by the Service that is attached under conditions established by the Service.

(e) *1983-85 Harvest Seasons* (animals harvested on or before December 31, 1985): Florida, Louisiana.

Condition on export: Each hide must be clearly identified as to species, State of origin, and season of taking, and must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service.

(f) *1984-85 harvests:* Texas.

Condition on export: Each hide must be clearly identified as to species, state of origin and season of taking and must be tagged by a permanently attached, serially numbered tag of a type approved by the Service that is attached under conditions established by the Service.

[45 FR 80446, Dec. 4, 1980, as amended at 46 FR 50777, Oct. 14, 1981; 47 FR 54971, Dec. 7, 1982; 49 FR 1060, Jan. 9, 1984; 50 FR 812, Jan. 7, 1985]

PART 24—IMPORTATION AND EXPORTATION OF PLANTS

Subpart A—Introduction

Sec.
24.1 Purpose of regulations.
24.2 Scope of regulations.

Subpart B—Importation and Exportation at Designated Ports

24.11 General restrictions.
24.12 Designated ports.

AUTHORITY: Secs. 9(f)(1), 11(f), Pub. L. 93-205, 87 Stat 893, 897 (16 U.S.C. 1538(f)(1), 1540(f)).

SOURCE: 49 FR 42941, Oct. 25, 1984, unless otherwise noted.

Subpart A—Introduction

§ 24.1 Purpose of regulations.

The regulations contained in this part are for the purpose of establishing ports for the importation, exportation and reexportation of plants.

§ 24.2 Scope of regulations.

The provisions in this part are in addition to, and do not supersede, other regulations in this chapter. Also, the U.S. Department of Agriculture administers the Plant Quarantine Act, as amended (7 U.S.C. 151 *et seq.*), the Federal Plant Pest Act, as amended (7 U.S.C. 150aa *et seq.*), and the Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 *et seq.*), which contain authority for additional prohibitions and restrictions, including additional port of entry requirements, for the importation or exportation of plants (See 7 CFR Chapter III for regulations containing prohibitions and restrictions under these authorities).

Subpart B—Importation and Exportation at Designated Ports

§ 24.11 General restrictions.

No person shall import, export, or reexport plants at any place other than at a port designated in 24.12 (hereinafter "designated port") in accordance with the provisions of this part, unless otherwise specifically authorized by the Service at a nondesignated port in accordance with section 9(f)(1) of the Endangered Species Act of 1973, as amended.

§ 24.12 Designated ports.

(a) The following U.S. Department of Agriculture ports are designated ports for the importation, exportation, or reexportation of plants which are listed in 50 CFR 17.12 and/or 23.23 and which are required to be accompanied by documentation under 50 CFR Part 17 and/or 23:

Nogales, Arizona
Los Angeles, California
San Diego, California
San Francisco, California
Miami, Florida
Honolulu, Hawaii
New Orleans, Louisiana
Hoboken, New Jersey (Port of New York)
Jamaica, New York
San Juan, Puerto Rico
Brownsville, Texas
El Paso, Texas
Laredo, Texas
Seattle, Washington

(b) The U.S. Department of Agriculture ports at Hilo, Hawaii, and Chicago, Illinois, are designated ports for the importation, exportation, or reexportation of plants of the family Orchidaceae (orchids) which are listed in 50 CFR 17.12 or 23.23 and which are required to be accompanied by documentation under 50 CFR Part 17 or 23.

(c) The U.S. Department of Agriculture ports at Atlanta, Georgia; Chicago, Illinois; Baltimore, Maryland; St. Louis, Missouri; and Milwaukee, Wisconsin; are designated ports for the importation, exportation or reexportation of roots of American ginseng (*Panax quinquefolius*) listed in 50 CFR 23.23 and which are required to be accompanied by documentation under 50 CFR Part 17 or 23.

(d) The U.S. Department of Agriculture ports at Detroit, Michigan; Buffalo, New York; Rouses Point, New York; and Blaine, Washington, are designated ports for the importation from Canada of plants which are listed in 50 CFR 17.12 or 23.23 and which are required to be accompanied by documentation under 50 CFR Part 17 or 23, and for the exportation or reexportation to Canada of plants which are listed in 50 CFR 17.12 or 23.23 and which are required to be accompanied by documentation under 50 CFR Part 17 or 23.

(e) All U.S. Customs designated ports of entry on the United States-Canadian border (Customs designated ports of entry are listed in 19 CFR Part 101) and the following U.S. Department of Agriculture ports are designated ports for the importation, exportation, or reexportation of plants not required to be accompanied by documentation under 50 CFR Part 17 or 23:

Mobile, Alabama
Anchorage, Alaska
Nogales, Arizona
Phoenix, Arizona
San Luis, Arizona
Tucson, Arizona
Calexico,Arizona
Los Angeles, California
San Diego, California
San Francisco, California
San Pedro, California
Denver, Colorado
Wallingford, Connecticut
Dover, Delaware (Dover AFB)
Wilmington, Delaware
Washingtion, District of Columbia
Jacksonville, Florida
Key West, Florida
Miami, Florida
Pensacola, Florida
Cape Canaveral, Florida
Port Everglades, Florida
Tampa, Florida
West Palm Beach, Florida
Atlanta, Georgia
Savannah, Georgia
Agana, Guam
Hilo, Hawaii
Honolulu, Hawaii
Wailuku Maui, Hawaii
Chicago, Illinois
Baton Rouge, Louisiana
New Orleans, Louisiana
Bangor, Maine

Portland, Maine
Baltimore, Maryland
Boston, Massachusetts
Detroit, Michigan
Duluth, Minnesota
St. Paul, Minnesota
Kansas City, Missouri
St. Louis, Missouri
Hoboken, New Jersey
McGuire AFB, New Jersey
Albany, New York
Buffalo, New York
New York, New York
Jamaica, New York
Rouses Point, New York
Morehead City, North Carolina
Wilmington, North Carolina
Cleveland, Ohio
Astoria, Oregon
Coos Bay, Oregon
Portland, Oregon
Philadelphia, Pennsylvania
Hato Rey, Puerto Rico
Mayaguez, Puerto Rico
Ponce, Puerto Rico
Roosevelt Roads, Puerto Rico
San Juan, Puerto Rico
Warwick, Rhode Island
Charleston, South Carolina
Memphis, Tennessee
Brownsville, Texas
Corpus Christi, Texas
Dallas-Ft. Worth, Texas
Del Rio, Texas
Eagle Pass, Texas
El Paso, Texas
Galveston, Texas
Hidalgo, Texas
Houston, Texas
Laredo, Texas
Port Arthur, Texas
Presidio, Texas
Progreso, Texas
Roma, Texas
San Antonia, Texas
St. Croix, Virgin Islands of the United States
St. Thomas, Virgin Islands of the United States
Newport News, Virginia
Norfolk, Virginia
Blaine, Washington
Tacoma, Washington (McChord AFB)
Seattle, Washington
Milwaukee, Wisconsin

SUBCHAPTER C—THE NATIONAL WILDLIFE REFUGE SYSTEM

PART 25—ADMINISTRATIVE PROVISIONS

Subpart A—Introduction

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25.11 Purpose of regulations.
25.12 Definitions.
25.13 Other applicable laws.

Subpart B—Administrative Provisions

25.21 Closing national wildlife refuges.
25.22 Lost and found articles.

Subpart C—Public Notice

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25.41 General provisions.
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25.43 Revocation of permits.
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Subpart E—Fees and Charges

25.51 General provisions.

Subpart F—Concessions

25.61 General provisions.

Subpart G—Safety Regulations

25.71 Public safety.
25.72 Reporting of accidents.

AUTHORITY: Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); Sec. 5, 43 Stat. 651 (16 U.S.C. 725); Sec. 5, 45 Stat. 449 (16 U.S.C. 690d); Sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); Sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); Sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); Sec. 476 Stat. 654 (16 U.S.C. 460k); Sec. 4, 80 Stat. 927 (16 U.S.C. 668dd).

SOURCE: 41 FR 9166, Mar. 3, 1976, unless otherwise noted.

Subpart A—Introduction

§ 25.11 Purpose of regulations

(a) The regulations of this subchapter govern the general administration of national wildlife refuges, public notice of changes in Service Policy regarding the national wildlife refuges, the issuance of permits required on national wildlife refuges, and other administrative aspects of national wildlife refuges.

(b) All national wildlife refuges are maintained for the primary purpose of developing a national program of wildlife and ecological conservation and rehabilitation. These refuges are established for the restoration, preservation, development and management of wildlife and wildlands habitat; for the protection and preservation of endangered or threatened species and their habitat; and for the management of wildlife and wildlands to obtain the maximum benefits from these resources.

§ 25.12 Definitions.

(a) As used in the rules and regulations in this subchapter:

"National Wildlife Refuge System" means all lands, waters, and interests therein administered by the U. S. Fish and Wildlife Service as wildlife refuges, wildlife ranges, wildlife management areas, waterfowl production areas, and other areas for the protection and conservation of fish and wildlife including those that are threatened with extinction.

"National wildlife refuge" means any area of the National Wildlife Refuge System except wildlife management areas.

"Wildlife management area" (sometimes referred to as "coordination areas") means any area of acquired land or public land withdrawn by the U.S. Fish and Wildlife Service and made available to the various States, or instrumentalities thereof, by cooperative agreement for management of wildlife resources in accordance with the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 661), as amended.

"Waterfowl production area" means any wetland or pothole area acquired pursuant to section 4(c) of the amended Migratory Bird Hunting Stamp Act (72 Stat. 487; 16 U.S.C. 718d(c)), owned or controlled by the United States and administered by the U.S. Fish and Wildlife Service as a part of the National Wildlife Refuge System.

"Big game" means large game animals, including moose, elk, caribou, reindeer, musk ox, deer, bighorn sheep, mountain goat, pronghorn, bear, and peccary, or such species as the separate States may so classify within their boundaries.

"Migratory bird" means and refers to those species of birds listed under § 10.13 of this chapter.

"Authorized official" means any Federal, State or local official empowered to enforce provisions of this Subchapter C.

(b) Unless otherwise stated the definitions found in 50 CFR 10.12 also apply to all of Subchapter C of this Title 50.

§ 25.13 Other applicable laws.

Nothing in this subchapter shall be construed to relieve a person from any other applicable requirements imposed by a local ordinance or by a statute or regulation of any State or of the United States.

Subpart B—Administrative Provisions

§ 25.21 Closing national wildlife refuges.

Once opened, all or any part of a national wildlife refuge may be closed to public access and use in accordance with the provisions in § 25.31, without advance notice, in the event of an emergency endangering life or property or to protect the resources of the area.

§ 25.22 Lost and found articles.

Lost articles or money found on a national wildlife refuge are to be immediately turned in to the nearest refuge office.

Subpart C—Public Notice

§ 25.31 General provisions.

Whenever a particular public access, use or recreational activity of any type whatsoever, not otherwise expressly permitted under this subchapter, is permitted on a national wildlife refuge or where public access, use, or recreational or other activities previously permitted are curtailed, the public may be notified by any of the following methods, all of which supplement this Subchapter C:

(a) Official signs posted conspicuously at appropriate intervals and locations;

(b) Special regulations issued under the provisions of § 26.33 of this Subchapter C.

(c) Maps available in the office of the refuge manager, regional director, or area director, or

(d) Other appropriate methods which will give the public actual or constructive notice of the permitted or curtailed public access, use, or recreational activity.

Subpart D—Permits

§ 25.41 General provisions.

Permits required by this Subchapter C can be obtained from the administrative office responsible for the refuge where the activity is to take place. If the applicant is required to obtain the applicable permit from the Director or Secretary, the refuge manager will so inform the applicant, giving the applicant all the necessary information as to how and where to apply.

§ 25.42 Permits required to be exhibited on request.

Any person on a national wildlife refuge shall upon request by any authorized official exhibit the required Federal or State permit or license authorizing their presence and activity on the area and shall furnish such other information for identification purposes as may be requested.

§ 25.43 Revocation of permits.

A permit may be terminated or revoked at any time for noncompliance with the terms thereof or of the regulations in this Subchapter C, for nonuse, for violation of any law, regulation or order applicable to the refuge, or to protect public health or safety or the resources of a national wildlife refuge.

§ 25.44 Appeals procedure.

(a) *Who may appeal.* Any person who is adversely affected by a refuge manager's decision or order relating to the person's permit granted by the Service, or application for permit, within the National Wildlife Refuge System. This section does not apply to permits or applications for rights-of-way. See § 29.22 for the hearing and appeals procedure on rights-of-way.

(b) *Preliminary procedure.* Prior to making any adverse decision or order on a permit or application for permit, the refuge manager shall notify the permittee or applicant orally or in writing of the proposed action and its effective date. The permittee or applicant shall have twenty (20) days after notification in which to present to the refuge manager, orally or in writing, a statement in opposition to the proposed action or date. The permittee or applicant shall be notified in writing within twenty (20) days after receipt of the statement in opposition, of the refuge manager's final decision or order.

(c) *Appeals, how taken.* If the refuge manager still intends to proceed with the proposed action, the permittee or applicant shall have thirty (30) days from the postmarked date of the refuge manager's final decision or order in which to file a written appeal to the appropriate area manager. The appellant (permittee or applicant) shall be notified in writing within thirty (30) days from the postmarked date of the appeal of the area manager's decision. The appellant shall have (30) days from the postmarked date of the area manager's decision to further appeal in writing to the appropriate regional director.

(d) *Decision of regional director.* The regional director's decision shall be final and issued in writing to the appellant within thirty (30) days from the postmarked date of the appeal.

(e) *Oral presentation.* The appellant shall be provided an opportunity for oral presentation before the area manager or the regional director within the respective thirty (30) day appeal periods.

(f) *Addresses.* The addresses of the appropriate officials to whom appeals may be taken shall be furnished in each decision or order.

(g) *Suspension pending appeal.* Compliance with any decision or order of a refuge manager shall not be suspended by reason of an appeal having been taken unless such suspension is authorized in writing by the area manager or regional director (depending upon the official before whom the appeal is pending), and then only upon a determination by these officials that such suspension will not be detrimental to the interests of the United States or upon submission and acceptance of a bond deemed adequate to indemnify the United States from loss or damage.

[42 FR 64120, Dec. 22, 1977]

Subpart E—Fees and Charges

§ 25.51 General provisions.

Reasonable charges and fees may be established for public recreation use of national wildlife refuges. Regulations regarding recreation fees are contained in 36 CFR Part 1227.

[41 FR 9166, Mar. 3, 1976, as amended at 44 FR 42976, July 23, 1979]

Subpart F—Concessions

§ 25.61 General provisions.

Public use facilities may be operated by concessionaires or cooperators under appropriate contact or legal agreement on national wildlife refuges where there is a demonstrated justified need for services or facilities including, but not limited to, boat rentals, swimming facilities, conducted tours of special natural attractions, shelters, tables, trailer lots, food, lodging, and related service.

Safety G—Safety Regulations

§ 25.71 Public safety.

Persons using national wildlife refuges shall comply with the safety requirements which are established under the provisions of this Subchapter C for each individual refuge and with any safety provisions which may be included in leases, agreements, or use permits.

§ 25.72 Reporting of accidents.

Accidents involving damage to property, injury to the public or injury to wildlife that occur within the boundaries of any national wildlife refuge are to be reported as soon as possible, but in no event later than 24 hours after the accident, by the persons involved, to the refuge manager or other personnel on duty at the national wildlife refuge headquarters. This report does not relieve persons from the responsibility of making any other accident reports which may be required.

PART 26—PUBLIC ENTRY AND USE

Subpart A—Introduction

Sec.

26.11 Purpose of regulations.

Subpart B—Public Entry

26.21 General trespass provision.
26.22 General exception for entry.
26.23 Exception for entry to the headquarters office.
26.24 Exception for entry when accompanied by refuge personnel.
26.25 Exception for entry to persons with an economic use privilege.
26.26 Exception for entry for use of emergency shelter.
26.27 Exception for entry on designated routes of travel.

Subpart C—Public Use and Recreation

26.31 General provisions.
26.32 Recreational uses.
26.33 Special regulations.
26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.
26.35 Cabin sites.
26.36 Public assemblies and meetings.
26.37 Interim Emergency Regulations for the following National Wildlife Refuges in Alaska: Alaska Marine Resources, Artic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats.

AUTHORITY: Sec. 2, 22 Stat. 614, as amended (16 U.S.C. 685); Sec. 5, 43 Stat. 651 (16 U.S.C. 725); Sec. 5, 45 Stat. 449 (16 U.S.C. 690d); Sec. 10, Stat. 1244 (16 U.S.C. 715); Sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); Sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); Sec. 4, 76 Stat. 654 (16 U.S.C. 460k); Sec. 4, 80 Stat. 927 (16 U.S.C. 668dd); (5 U.S.C. 301); (16 U.S.C. 685, 725, 680d), unless otherwise noted.

SOURCE: 41 FR 9167, Mar. 3, 1976, unless otherwise noted.

Subpart A—Introduction

§ 26.11 Purpose of regulations.

The regulations in this part govern the circumstances under which the public can enter and use a national wildlife refuge.

Subpart B—Public Entry

§ 26.21 General trespass provision.

(a) No person shall trespass, including but not limited to entering, occupying, using, or being upon, any national wildlife refuge, except as specifically authorized in this Subchapter C or in other applicable Federal regulations.

(b) No unconfined domestic animals, including but not limited to dogs, hogs, cats, horses, sheep and cattle, shall be permitted to enter upon any national wildlife refuge or to roam at large upon such an area, except as specifically authorized under the provisions of § 26.34, § 27.91 or § 29.2 of this Subchapter C.

§ 26.22 General exception for entry.

(a) Any person entering or using any national wildlife refuge will comply with the regulations in this Subchapter C, the provisions of any special regulations and any other official notification as is appropriate under § 25.31.

(b) A permit shall be required for any person entering a national wildlife refuge, unless otherwise provided under the provisions of Subchapter C. The permittee will abide by all the terms and conditions set forth in the permit.

§ 26.23 Exception for entry to the headquarters office.

The headquarters office of any national wildlife refuge is open to public access and admission during regularly established business hours.

§ 26.24 Exception for entry when accompanied by refuge personnel.

A permit is not required for access to any part of a national wildlife refuge by a person when accompanied by refuge personnel.

§ 26.25 Exception for entry to persons with an economic use privilege.

Access to and travel upon a national wildlife refuge by a person granted economic use privileges on that national wildlife refuge should be restricted to a specified area in accordance with the provisions of their agreement, lease, or permit.

§ 26.26 Exception for entry for use of emergency shelter.

A permit is not required for access to any national wildlife area for temporary shelter or temporary protection in the event of emergency conditions.

§ 26.27 Exception for entry on designated routes of travel.

A permit is not required to enter, travel on, and exit from any national wildlife refuge on public waters and roads, and such roads, trails, footpaths, walkways, or other routes and areas which are designated for public use under the provisions of this Subchapter C.

Subpart C—Public Use and Recreation

§ 26.31 General provisions.

Public recreation will be permitted on national wildlife refuges as an appropriate incidental or secondary use, only after it has been determined that such recreational use is practicable and not inconsistent with the primary objectives for which each particular area was established or with other authorized Federal operations.

§ 26.32 Recreational uses.

Recreational uses such as, but not limited to, sightseeing, nature observation and photography, interpretive centers and exhibits, hunting and fishing, bathing, boating, camping, ice skating, picnicking, swimming, water skiing, and other similar activities may be permitted on national wildlife refuges. When such uses are permitted the public will be notified under the provisions of this Subchapter C.

§ 26.33 Special regulations.

(a) Special regulations shall be issued for public use, access, and recreation within certain individual national wildlife refuges where there is a need to amend, modify, relax or make more stringent the regulations contained in this Subchapter C. The issued special regulations will supplement the provisions in this Part 26.

(b) Special recreational use regulations may contain the following items:

(1) Recreational uses authorized.

(2) Seasons, period, or specific time of use.

(3) Description of areas open to recreation.

(4) Specific conditions or requirements.

(5) Other provisions.

(6) Special regulations for public use, access, and recreation are published in the daily issue of the Federal Register and may be codified in the Code of Federal Regulations. They shall be issued in compliance with procedures contained in the Departmental Manual.

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

EDITORIAL NOTE: For FEDERAL REGISTER citations to regulations affecting temporary and special regulations on national wildlife refuges, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 26.35 Cabin sites.

(a) There shall be no new private cabin site permits issued for national wildlife refuges. All appropriate provisions of 43 CFR Part 21 apply to the phaseout of existing permits on national wildlife refuges.

(b) No new government owned cabin site permits for private recreational purposes shall be issued nor shall existing permits be renewed.

§ 26.36 Public assemblies and meetings.

(a) Public meetings, assemblies, demonstrations, parades and other public expressions of view may be permitted within a national wildlife refuge open to public use, provided a permit therefore has been issued by the refuge manager.

(b) Any application for such permit shall set forth the name of the applicant, the date, time, duration, nature and place of the proposed event, an estimate of the number of persons expected to attend, and a statement of equipment and facilities to be used in connection therewith.

(c) The refuge manager may issue a permit on proper application unless:

(1) A prior application for the same time and place has been made which has been or will be granted; or

(2) The activity will present a clear and present danger to public health or safety, or undue disturbance to the other users or resources of the area; or

(3) The activity is of such nature that it cannot be reasonably accommodated in the particular national wildlife refuge; or

(4) The activity conflicts with the purposes of the national wildlife refuge.

(d) The permit may contain such conditions as are reasonably consistent with protection and use of the national wildlife refuge for the purpose for which it is maintained. It may also contain reasonable limitations on the time and area within which the activity is permitted.

§ 26.37 Interim Emergency Regulations for the following National Wildlife Refuges in Alaska: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats.

(a) *Scope.* (1) Pursuant to section 204(c) of the Federal Land Policy and Managment Act of 1976, 43 U.S.C. 1714(c), the Secretary of the Interior has withdrawn and reserved twelve areas in Alaska as National Wildlife Refuges for the purpose of preserving and enhancing their outstanding resource values. These areas are: Alaska Marine resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta, and Yukon Flats. Each of these areas is subject to these interim emergency regulations.

(2) The National Wildlife Refuge System regulations of Title 50 CFR Chapter I, Subchapter C, apply to these refuges except as specifically modified by these interim emergency regulations.

(3) These rules will remain in effect until the publication of final regulations establishing permanent special rules governing the administration of these areas.

(b) *Definitions.* The definitions in this section apply only to these interim rules:

(1) "Alaska National Wildlife Refuges subject to these rules" means those refuges withdrawn by Secretarial Orders on February 11, 1980, and administered by the U.S. Fish and Wildlife Service. These areas are: Alaska Marine Resources, Arctic, Innoko, Kanuti, Kenai, Koyukuk, Nowitna, Selawik, Tetlin, Togiak, Yukon Delta and Yukon Flats.

(2) "Area Director" means any official of the U.S. Fish and Wildlife Service who has been delegated authority for management of Alaska National Wildlife Refuges subject to these rules, including the Alaska Area Director or his authorized representatives.

(3) "Subsistence uses" means the customary and traditional uses in Alaska of wild, renewable resources for (i) direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, (ii) the making or selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption, and (iii) customary trade, barter, or sharing for personal or family consumption.

(4) "Off-road vehicles" means any motorized vehicle designed for, or capable of, cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain.

(5) "Claim" means any valid patented or unpatented mining claim, mill or tunnel site, or other site of mining operations, whether on Federal, State or Private lands.

(6) "Mining operations" means all functions, work and activities in connection with mining on claims, including: prospecting, exploration, surveying, development and extraction; dumping mine waste and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto regardless of whether such activities and uses take place on Federal, State or private land.

(7) "Person" means any individual, partnership, corporation, association or other entity.

(c) *Subsistence uses.* (1) The nonwasteful subsistence uses of fish, wildlife or plant resources within Alaska National Wildlife Refuges subject to these rules shall be allowed to continue by local rural residents who comply with applicable provisions of State and Federal law. The nonwasteful subsistence use of fish, wildlife or plant resources shall be the first priority consumptive use of such resources over other consumptive uses such as sport hunting, commercial trapping or sport or commercial fishing.

(2) Notwithstanding any other provision of this section, the Area Director shall close all or any portion of an Alaska National Wildlife Refuge subject to these rules to the subsistence uses of a particular fish, wildlife or plant population, or take such other measures as may be necessary, if he determines that an emergency situation exists and that measures must be taken to provide for public safety or to assure the natural stability and continued viability of the particular population of fish, wildlife or plants. In the case of closure, the Area Director shall post a notice of the reasons justifying the closure in communities known to be affected by the closure and shall publish and broadcast the reasons justifying the closure in the local media in the area of the closure. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the Area Director establishes after notice and informal public hearing that such extension is justified.

(d) *Use of snowmobile, motorboat, fixed-wing aircraft and other motorized vehicles.* (1) The use of snowmobiles, motorboats and fixed-wing aircraft for access to areas within, adjacent to, or across the Refuges may continue where such use is traditional and established or reasonable and appropriate in exercise of a valid property right. In determining whether to restrict the use of such vehicles or to temporarily or permanently close an area to their use, the Area Director shall consider such factors as other visitor uses, public health and safety, environmental and resource protection, endangered and threatened species conservation, research activities, aesthetics, and other management considerations necessary to insure use compatible with the purposes for which the refuge was created. For snowmobile use the Area Director shall also be guided by criteria contained in section 3 of E.O. 11644 (34 FR 2877), as amended. The Area Director shall temporarily close or, after notice and opportunity for an informal public hearing, permanently close, areas to the use of motorized vehicles governed by this paragraph if, based on the factors enumerated above, he determines that the continuation of such uses is not compatible with the purpose for which the refuge was established.

(2) The use of off-road vehicles other than snowmobiles is prohibited except where expressly permitted on routes of travel which may be designated by the Area Director, *provided,* however that the use of such vehicles may continue where such use is reasonable and appropriate in the exercise of a valid property right.

(3) All vehicles subject to this subsection shall be operated in compliance with applicable State and Federal law and in such a manner as to prevent waste or damage to fish, wildlife, plants, terrain or any other part or value of the refuge.

(e) *Recreational activities.* On-going public recreational activities within the Alaska National Wildlife Refuges subject to these rules shall be allowed to continue as long as such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include but are not limited to sightseeing, nature observation and photography, hunting, fishing, boating, camping, hiking, picnicking and other related activities.

(f) *Taking of fish and wildlife.* (1) The taking of fish and wildlife for sport hunting, commercial trapping and sport or commercial fishing shall continue in accordance with applicable State and Federal law; *Provided, however,* That the Area Director may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted within such a Refuge when deemed advisable for management purposes. The following provisions shall apply to each person while engaged in the taking of fish or wildlife within an Alaska National Wildlife Refuge subject to these rules:

(i) *Commercial trapping and sport hunting.* (A) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(B) Each person shall comply with the applicable provisions of Federal law;

(ii) *Sport and commercial fishing.* (A) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(B) Each person shall comply with the applicable provisions of Federal law.

(2) Nothing in these rules shall be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or these provisions of Subchapter C of Title 50, CFR regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a special use permit issued by the Area Director.

(g) *Cabin sites.* Traditional and customary uses of existing cabins and related structures may be allowed to continue provided that such uses are compatible with the purposes for which the refuge was established.

(h) *Unattended property.* (1) Leaving any snowmobile, vessel, off-road vehicle or other personal property unattended for longer than 12 months without the prior permission of the Area Director is prohibited and any property so left may be impounded by the Area Director. This prohibition does not apply to personal property left unattended in a cache or cabin when used in conjunction with an authorized activity.

(2) In the event unattended property interferes with the safe and orderly management of part of the refuge, or causes damage to refuge resources, it may be impounded by the Area Director.

(i) *Firearms.* The possession, use, and transporting of firearms is authorized for hunting and personal protection in accordance with State and Federal laws unless specifically prohibited or otherwise restricted by the Area Director.

(j) *Sled dogs and household pets.* The general trespass provisions of § 26.21 shall not apply to household pets and sled or pack dogs under the control of their owners or handlers.

(k) *Permits.* The National Wildlife Refuge Rules (Subchapter C) provide in several sections that permits may be obtained from the Refuge Manager or Area Director. For activities involving the Alaska refuges subject to this rule, such permits are to be obtained from the Area Director.

(l) *Mining*—(1) *Mining access permits*—(i) *General rule.* Notwithstanding the provisions of subsection (d), no person shall enter, cross by surface transportation, or land aircraft upon, lands, waters or interests therein owned or controlled by the United States within an Alaskan National Wildlife Refuge subject to these rules for purposes of conducting mining operations, except in accordance with the provisions of a mining access permit issued by the Area Director. The issuance of a mining access permit shall not be interpreted as excusing the permittee from compliance with other existing State or Federal laws applicable to mining operations, and shall not be deemed to render valid any claim which is not otherwise valid under applicable law. Accordingly, the issuance of a mining access permit for mining operations on the claim shall not be deemed a waiver of the Secretary's authority to examine, and where appropriate, to contest the validity of unpatented claims.

(ii) Permit Application. In applying for a mining access permit, each applicant shall set forth the following information concerning the proposed mining operations in a sworn statement which acknowledges that providing false information in support of the permit application is a violation of section 1001 of Title 18 of the U.S. Criminal Code:

(A) The name, mailing address and phone number of the permit applicant;

(B) The claim(s) name and description of type of claim (e.g. patented claim, mill site, unpatented claim, etc.);

(C) A map with a scale of not less than ½ inch to a mile (1:125,000) showing the survey or protraction grids on which there will be depicted the location of the claim(s). Contiguous claims and groups of claims in the same general area may be depicted on a single map so long as the individual claims are clearly identified;

(D) The date(s) of location along with a copy of location notice(s);

(E) The date and place of recordation and book and page number of recordation;

(F) The kind of mine and minerals produced (e.g. placer, lode, copper, gold);

(G) A description of the proposed mining operations, the proposed routes and methods of access, period of intended occupancy and operation at claim site, and major equipment to be used in the operations;

(H) A brief environmental summary which: (*1*) Analyzes the environmental impacts of the proposed mining operations and routes and methods of access and the environmental impacts of any alternative routes and methods of access; and (*2*) describes those measures which will be incorporated into the proposed mining operations and the construction and use of access routes to minimize the anticipated adverse impacts upon the Refuge and its related values; and

(I) For unpatented claims within the Refuge the additional information shall be provided:

(*1*) The last year in which there was production from this claim or claim group and the amount of production (e.g. pounds, tons, market value, etc.);

(*2*) The person or company to whom the ore or concentrates were shipped;

(*3*) The quantity of known reserves on the claim remaining to be mined (e.g. cubic yards, tons, etc.) plus a description of the tests conducted and documents which support this estimation of quantity;

(*4*) The grade or quality of the known reserves on the claim remaining to be mined (e.g. ounces per cubic yard, assay, etc.) plus a description of the tests conducted and documents which support this estimation of grade or quality.

(J) If the permit applicant requests a single mining access permit for contiguous unpatented claims or a group of unpatented claims in the same general area, it shall be stated to what extent the mineral data requested in question 9 of this Subsection exists for each separate claim to be covered by the permit. Permit applications shall be sent to the Area Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99507.

(iii) *Issuance criteria.* (A) Within 45 days of receiving a mining access permit application containing the information required in paragraph (l)(1)(ii), the Area Director shall consider the following factors and decide whether to grant the permit and, if so, under what conditions or restrictions:

(*1*) For unpatented claims within the refuge whether the supplied mineral data supports a preliminary determination that the permit applicant is the holder of a valid existing right in the specified mining claim(s);

(*2*) The anticipated environmental impact of the proposed mining operations and routes and methods of access upon the refuge and its related values;

(*3*) The existence of reasonable and prudent alternatives to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the refuge and its related values;

(*4*) The existence of other proposed mining operations on valid mining claims in the same general area and the possibility of consolidating routes and methods of access among such claims;

(*5*) Whether an Environmental Impact Statement must be prepared prior to the issuance of the access permit.

(B) If the review of the permit application cannot be completed within 45 days after its receipt, the Area Director shall notify the applicant and set forth the reasons why an additional period of time, not to exceed 30 days, is required to complete the review.

(C) A mining access permit shall not be granted if:

(*1*) In the case of unpatented mining claims within the refuge, it is the preliminary determination of the Area Director that the permit applicant is not the holder of valid existing rights in the claims; or

(*2*) The Area Director concludes that the proposed routes and methods of access would constitute a nuisance or would significantly injure or adversely affect the Refuge and its related values, and that such nuisance, injury or effect could not be adequately mitigated through the imposition of reasonable conditions or restrictions in the mining access permit;

(*3*) A reasonable and prudent alternative exists to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the Refuge and its related values; or

(*4*) It is determined that an Environmental Impact Statement must be prepared prior to the issuance of a mining access permit.

(iv) *Appeals process.* (A) Any permit applicant aggrieved by a decision of the Area Director in connection with the issuance or denial of a mining access permit may file with the Area Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Area Director within thirty (30) days after the date of notification to the permit applicant of the action or decision complained of. Upon receipt of the written statement from the permit applicant, the Area Director shall promptly review the action or decision and either reverse or reaffirm the original decision. If the Area Director reaffirms his original decision, he shall set forth the reasons therefor and forward his decision and the record on appeal to the Director, U.S. Fish and Wildlife Service, for review and final decision. Copies of the Area Director's decision on appeal shall be furnished to the permit applicant who shall have 20 days within which to file exceptions to the Area Director's decision. The Fish and Wildlife Service retains the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(B) The official files of the Fish and Wildlife Service on the proposed mining operations and routes and methods of access, and any testimony and documents submitted by the parties on which the decision of the Area Director was based, shall constitute the record on appeal. The Area Director shall maintain the record under separate cover and shall certify at the time it is forwarded to the Director of the Fish and Wildlife Service that it is the record on which his decision was based. The Fish and Wildlife Service shall make the record available to the permit applicant upon request.

(C) If the Director considers the record inadequate to support the decision on appeal, he may request the production of such additional evidence or information as may be appropriate, or may remand the case to the Area Director, with appropriate instructions for further action.

(D) Within forty-five (45) days of receipt of the permit applicant's exceptions to the Area Director's decision, the Director shall make his final decision in writing; *provided, however,* that if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reasons for delay. The decision of the Director shall include (*1*) a statement of facts, (*2*) conclusions, and (*3*) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action on the mining access permit application.

(E) A decision of the Area Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be filed with the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

(v) *Public inspection of documents.* Any permit application and accompanying documentation submitted pursuant to the regulations of this section shall be made available for public inspection at the Office of the Area Director. The availability of such records shall be governed by the rules and regulations found at 43 CFR Part 2, including the provisions therein regarding the confidentiality of commercial and financial information.

(National Wildlife Refuge Administration Act, 16 U.S.C. 668dd et seq.; Fish and Wildlife Act of 1956, 16 U.S.C. 742 et seq.; Federal Land Policy and Management Act, 204(j), 43 U.S.C. 1714(j))

[45 FR 14194, Mar. 4, 1980]

PART 27—PROHIBITED ACTS

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AUTHORITY: Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); Sec. 5, 43 Stat. 651 (16 U.S.C. 725); Sec. 5, Stat. 449 (16 U.S.C. 690d); Sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); Sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); Sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); 49 Stat. 383 as amended; Sec. 4, 76 Stat. (16 U.S.C. 460k); Sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) (5 U.S.C. 685, 752, 690d); 16 U.S.C. 715s).

SOURCE: 41 FR 9168, Mar. 3, 1976, unless otherwise noted.

Subpart A—Introduction

§ 27.11 Purpose of regulations.

The regulations in this Part 27 govern those acts by the public which are prohibited at all times except as permitted in this part, Part 26, and Part 25, Subpart D—Permits.

[42 FR 56954, Oct. 31, 1977]

Subpart B—Taking Violations

§ 27.21 General provisions.

No person shall take any animal or plant on any national wildlife refuge, except as authorized under 50 CFR

27.51 and Parts 31, 32, and 33 of this Subchapter C.

Subpart C—Disturbing Violations: With Vehicles

§ 27.31 General provisions regarding vehicles.

Travel in or use of any motorized or other vehicles, including those used on air, water, ice, snow, is prohibited on national wildlife refuges except on designated routes of travel, as indicated by the appropriate traffic control signs or signals and in designated areas posted or delineated on maps by the refuge manager and subject to the following requirements and limitations:

(a) Unless specifically covered by the general and special regulations set forth in this chapter, the laws and regulations of the State within whose exterior boundaries a national wildlife refuge or portion thereof is located shall govern traffic and the operation and use of vehicles. Such State laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(b) No operator of a vehicle shall be under the influence of intoxicating beverages or controlled substances.

(c) Driving or operating any vehicle carelessly or heedlessly, or in willful or wanton disregard for the rights or safety of other persons, or without due care or at a speed greater than is reasonable and prudent under prevailing conditions, having regard to traffic, weather, wildlife, road, and light conditions, and surface, width, and character of the travel way is prohibited. Every operator shall maintain such control of the vehicle as may be necessary to avoid danger to persons or property or wildlife.

(d) The vehicle speed limit shall not exceed 25 m.p.h. except as otherwise legally posted.

(e)(1) Every motor vehicle shall at all time be equipped with a muffler in good working order, and which cannot be removed or otherwise altered while the vehicle is being operated on a national wildlife refuge. To prevent excessive or unusual noise no person shall use a muffler cut-out, bypass, or similar device upon a motor vehicle. A vehicle that produces unusual or excessive noise or visible pollutants is prohibited.

(2) A refuge manager, by posting of appropriate signs or by marking on a map which shall be available at the refuge headquarters, may require that any motor vehicle operating in the designated area shall be equipped with a spark arrestor that meets Standard 5100-1a of the U.S. Forest Service, Department of Agriculture which standard includes the requirements that such spark arrestor shall have an efficiency to retain or destroy at least 80 percent of carbon particles, for all flow rates, and that such spark arrestor has been warranted by its manufacturer as meeting the above mentioned efficiency requirement for at least 1,000 hours, subject to normal use, with maintenance and mounting in accordance with the manufacturers recommendations.

(f) The operation of a vehicle which does not bear valid license plates and is not properly certified, registered, or inspected in accordance with applicable State laws is prohibited.

(g) Driving or permitting another person to drive a vehicle without valid license is prohibited. A valid driver's or operator's license must be displayed upon the request of any authorized official.

(h) Stopping, parking or leaving any vehicle, whether attended or unattended, upon any road, trail, or fire lane so as to obstruct the free movement of other vehicles is prohibited, except in the event of accident or other conditions beyond the immediate control of the operator, or as otherwise directed by an authorized official.

(i) All persons shall obey the lawful order or signal of any authorized official directing, controlling, or regulating the movement of traffic.

(j) Load, weight and width limitations, as may be necessary, shall be prescribed and the public advised under provisions of § 25.31. Such limitations must be complied with by the operators of all vehicles.

(k) A motor vehicle involved in an accident is not to be moved until an authorized official arrives at the scene of the accident, unless such vehicle constitutes a traffic or safety hazard.

(l) A motor vehicle shall not be operated at anytime without proper brakes and brake lights, or from sunset to sunrise without working headlights and taillights which comply with the regulations for operation on the roads of the State within whose boundaries the refuge is located.

(m) Such other requirements which are established under the provisions of this Subchapter C.

§ 27.32 Boats.

(a) The use of boats in national wildlife refuges is prohibited except as may be authorized under and subject to the requirements set forth below.

(b) When the use of boats is permitted on any national wildlife refuge, the public will be notified under the provisions of this Subchapter C and the following operational requirements and limitations will apply:

(1)(i) In addition to the regulations contained in this part, the U.S. Coast Guard Regulations, Titles 33 and 46 CFR, are applicable on navigable waters of the United States.

(ii) Unless specifically covered by the general and special regulations set forth in this chapter, the laws and regulations of the State within whose exterior boundaries a national wildlife refuge or portion thereof is located shall govern boating and the operation and use of boats. Such laws and regulations which are now or may hereafter be in effect are hereby adopted and made a part of the regulations in this part.

(2) No operator or person in charge of any boat shall operate or knowingly permit any other person to operate a boat in a reckless or negligent manner, or in a manner so as to endanger or be likely to endanger any person, property or wildlife.

(3) No person shall operate or be in actual physical control of a boat while under the influence of intoxicating beverages or controlled substances.

(4) No person shall operate a boat in a manner which will unreasonably interfere with other boats or with free and proper navigation of the waterways of the areas. Anchoring in heavily traveled channels or main thoroughfares shall constitute such interference if unreasonable in the prevailing circumstances.

(5) No person shall operate a boat on refuge waters that has a marine head (toilet) unless it conforms to Environmental Protection Agency regulations regarding sewage discharge.

(6) Every sailboat when underway from sunset to sunrise shall carry and exhibit a bright white light visible all around the horizon for a distance of two miles.

(7) Leaving any boat unattended, outside of designated mooring or beaching areas, for a period in excess of 72 hours without written permission of the refuge manager is prohibited and any boat so left may be impounded by the refuge manager.

(8) Government-owned docks, piers, and floats are not to be used for loading and unloading of boats, except in emergencies or unless specifically authorized by the refuge manager.

§ 27.33 Water skiing.

When water skiing is permitted upon national wildlife refuge waters, the public will be notified under the provisions of this Subchapter C and the following requirements and limitations will apply:

(a) Water skiing is permitted only during daylight hours and during periods posted or otherwise designated under the provisions of this Subchapter C.

(b) When a skier is in "tow" there must be two persons in the boat at all times, with one person not operating the boat, acting as an observer of the skier in tow.

(c) The direction of a tow boat when circling will be counter clockwise.

(d) Skiers must wear U.S. Coast Guard approved ski belts, life jackets or buoyant vests.

(e) Water skiing is prohibited within 300 feet of harbors, swimming beaches, and mooring areas, and within 100 feet of any designated swimming area.

§ 27.34 Aircraft.

The unauthorized operation of aircraft, including sail planes, and hang gliders, at altitudes resulting in harassment of wildlife, or the unauthorized landing or take-off on a national wildlife refuge, except in an emergency, is prohibited. National wildlife refuge boundaries are designated on up-date FAA aeronautical charts.

Subpart D—Disturbing Violations: With Weapons

§ 27.41 General provisions.

Carrying, possessing, or discharging firearms, fireworks, or explosives on national wildlife refuges is prohibited unless specifically authorized under the provisions of this Subchapter C.

§ 27.42 Firearms.

Only the following persons may possess, use, or transport firearms on national wildlife refuges in accordance with this section and applicable Federal and State law:

(a) Persons using firearms for public hunting under the provisions of 50 CFR Part 32.

(b) Persons carrying unloaded firearms, that are dismantled or cased, in vehicles and boats over routes of travel designated under the provision of Subchapter C.

(c) Persons authorized to use firearms for the taking of specimens of wildlife for scientific purposes.

(d) Persons authorized by special regulations or permits to possess or use firearms for the protection of property, for field trials, and other special purposes.

[46 FR 47230, Sept. 25, 1981]

§ 27.43 Weapons other than firearms.

The use or possession of cross bows, bows and arrows, air guns, spears, gigs, or other weapons on national wildlife refuges is prohibited except as may be authorized under the provision of this Subchapter C.

[46 FR 47230, Sept. 25, 1981]

Subpart E—Disturbing Violations: Against Plants and Animals

§ 27.51 Disturbing, injuring, and damaging plants and animals.

(a) Disturbing, injuring, spearing, poisoning, destroying, collecting or attempting to disturb, injure, spear, poison, destroy or collect any plant or animal on any national wildlife refuge is prohibited except by special permit unless otherwise permitted under this Subchapter C.

§ 27.52 Introduction of plants and animals.

Plants and animals or their parts taken elsewhere shall not be introduced, liberated, or placed on any national wildlife refuge except as authorized.

Subpart F—Disturbing Violations: Against Nonwildlife Property

§ 27.61 Destruction or removal of property.

The destruction, injury, defacement, disturbance, or the unauthorized removal of any public property including natural objects or private property on or from any national wildlife refuge is prohibited.

§ 27.62 Search for and removal of objects of antiquity.

No person shall search for or remove from national wildlife refuges objects of antiquity except as may be authorized by 43 CFR Part 3.

§ 27.63 Search for and removal of other valued objects.

(a) No person shall search for buried treasure, treasure trove, valuable semiprecious rocks, stones, or mineral specimens on national wildlife refuges unless authorized by permit or by provision of this Subchapter C.

(b) Permits are required for archeological studies on national wildlife refuges in accordance with the provisions of this Subchapter C.

§ 27.64 Prospecting and mining.

Prospecting, locating, or filing mining claims on national wildlife refuges is prohibited unless otherwise provided by law. See § 29.31 for provisions concerning mineral leasing.

[41 FR 9168, Mar. 3, 1976, as amended at 44 FR 42976, July 23, 1979]

§ 27.65 Tampering with vehicles and equipment.

Tampering with, entering, or starting any motor vehicle, boat, equipment or machinery or attempting to tamper with, enter, or start any motor vehicle, boat, equipment or machinery on any national wildlife refuge without proper authorization is prohibited.

Subpart G—Disturbing Violations: Light and Sound Equipment

§ 27.71 Motion or sound pictures.

The taking or filming of any motion or sound pictures on a national wildlife refuge for subsequent commercial use is prohibited except as may be authorized under the provisions of 43 CFR Part 5.

§ 27.72 Audio equipment.

The operation or use of audio devices including radios, recording and playback devices, loudspeakers, television sets, public address systems and musical instruments so as to cause unreasonable disturbance to others in the vicinity is prohibited.

§ 27.73 Artificial lights.

No unauthorized person shall use or direct the rays of a spotlight or other artificial light, or automotive headlights for the purpose of spotting, locating, or taking any animal within the boundaries of any national wildlife refuge or along rights-of-way for public or private roads within a national wildlife refuge.

Subpart H—Disturbing Violations: Personal Conduct

§ 27.81 Alcoholic beverages.

Entering or remaining in any national wildlife refuge when under the influence of alcohol, to a degree that may endanger oneself or other persons or property or unreasonably annoy persons in the vicinity, is prohibited.

§ 27.82 Possession and delivery of controlled substances.

(a) Definitions for the purpose of this section:

(1) The term "controlled substance" means a drug or other substance, or immediate precursor, included in Schedules I, II, III, IV, or V of Part B of the Controlled Substance Act (21 U.S.C. 812) or any drug or substance added to these schedules pursuant to the terms of the Controlled Substance Act.

(2) The term "practitioner" means a physician, dentist, veterinarian, scientific investigator, pharmacist, or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he practices to distribute or possess a controlled substance in the course of professional practice.

(3) The term "delivery" means the actual, attempted or constructive transfer and/or distribution of a controlled substance, whether or not there exists an agency relationship.

(b) Offenses. (1) The delivery of any controlled substance on a national wildlife refuge is prohibited, except that distributed by a practitioner in accordance with applicable law.

(2) The possession of a controlled substance on a national wildlife refuge is prohibited unless such substance was obtained by the possessor directly, or pursuant to a valid prescription or order, from a practitioner acting in the course of his professional practice, or except as otherwise authorized by applicable law.

(3) Presence in a national wildlife refuge when under the influence of a controlled substance to a degree that may endanger oneself, or another person, or property, or may cause unreasonable interference with another person's enjoyment of a national wildlife refuge is prohibited.

§ 27.83 Indecency and disorderly conduct.

Any act of indecency or disorderly conduct as defined by State or local laws is prohibited on any national wildlife refuge.

§ 27.84 Interference with persons engaged in authorized activities.

Disturbing, molesting, or interfering with any employee of the United States or of any local or State government engaged in official business, or with any private person engaged in the pursuit of an authorized activity on any national wildlife refuge is prohibited.

§ 27.85 Gambling.

Gambling in any form, or the operation of gambling devices, for money or otherwise, on any national wildlife refuge is prohibited.

§ 27.86 Begging.

Begging on any national wildlife refuge is prohibited. Soliciting of funds for the support or assistance of any cause or organization is also prohibited unless properly authorized.

Subpart I—Other Disturbing Violations

§ 27.91 Field trials.

The conducting or operation of field trials for dogs on national wildlife refuges is prohibited except as may be authorized by special permit.

§ 27.92 Private structures.

No person shall without proper authority construct, install, occupy, or maintain any building, log boom, pier, dock, fence, wall, pile, anchorage, or other structure or obstruction in any national wildlife refuge.

§ 27.93 Abandonment of property.

Abandoning, discarding, or otherwise leaving any personal property in any national wildlife refuge is prohibited.

§ 27.94 Disposal of waste.

(a) The littering, disposing, or dumping in any manner of garbage, refuse sewage, sludge, earth, rocks, or other debris on any national wildlife refuge except at points or locations designated by the refuge manager, or the draining or dumping of oil, acids, pesticide wastes, poisons, or any other types of chemical wastes in, or otherwise polluting any waters, water holes, streams or other areas within any national wildlife refuge is prohibited.

(b) Persons using a national wildlife refuge shall comply with the sanitary requirements established under the provisions of this Subchapter C for each individual refuge; the sanitation provisions which may be included in leases, agreements, or use permits, and all applicable Federal and State laws.

§ 27.95 Fires.

On all national wildlife refuges persons are prohibited from the following:

(a) Setting on fire or causing to be set on fire any timber, brush, grass, or other inflammable material including camp or cooking fires, except as authorized by the refuge manager or at locations designated for that purpose or as provided for under § 26.33(c) of this Subchapter C.

(b) Leaving a fire unattended or not completely extinguished;

(c) Throwing a burning cigarette, match, or other lighted substance from any moving conveyance or throwing of same in any place where it may start a fire; and

(d) Smoking on any lands, including roads, or in any buildings which have been designated and/or posted with no smoking signs.

§ 27.96 Advertising.

Except as may be authorized, posting, distributing, or otherwise displaying private or public notices, advertisements, announcements, or displays of any kind in any national wildlife refuge, other than business designations on private vehicles or boats is prohibited.

§ 27.97 Private operations.

Soliciting business or conducting a commercial enterprise on any national wildlife refuge is prohibited except as may be authorized by special permit.

PART 28—ENFORCEMENT, PENALTY, AND PROCEDURAL REQUIREMENTS FOR VIOLATIONS OF PARTS 25, 26, AND 27

Subpart A—Introduction

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AUTHORITY: Sec. 2, 33 Stat. 614, as amended (16 U.S.C. 685); sec. 5, 43 Stat. 651 (16 U.S.C. 725); sec. 5, 45 Stat. 449 (16 U.S.C. 690d); sec. 10, 45 Stat. 1224 (16 U.S.C. 715i); sec. 4, 48 Stat. 402, as amended (16 U.S.C. 664); sec. 2, 48 Stat. 1270 (43 U.S.C. 315a); sec. 4, 76 Stat. 654 (16 U.S.C 460k); sec. 4, 80 Stat. 927 (16 U.S.C. 668dd) 5 U.S.C. 301).

SOURCE: 41 FR 9171, Mar. 3, 1976, unless otherwise noted.

Subpart A—Introduction

§ 28.11 Purpose of regulations.

The regulations in this part govern the enforcement, penalty and procedural requirements for violations of Parts 25, 26, and 27.

Subpart B—Enforcement Authority

§ 28.21 General provisions.

Refuge managers and other authorized personnel are authorized pursuant to authority delegated from the Secretary and which has been published in the FEDERAL REGISTER (Administrative Manual 4 AM 4.2) to protect fish and wildlife and their habitat and prevent their disturbance, to protect Service property and facilities, and to insure the safety of the using public to the fullest degree possible. The control of recreational use will be enforced to meet these purposes pursuant to Federal, State, and local laws and regulations: The provisions of this Subchapter C and any special regulations issued pursuant thereto; and the prohibitions and restrictions as posted.

[41 FR 9171, Mar. 3, 1976, as amended at 44 FR 42976, July 23, 1979]

Subpart C—Penalty Provisions

§ 28.31 General penalty provisions.

(a) Any person who violates any of the provisions, rules, regulations, posted signs, or special regulations of this Subchapter C, or any items, conditions or restrictions in a permit, license, grant, privilege, or any other limitation established under the Subchapter C shall be subject to the penalty provisions of this section.

(b) Failure of any person, utilizing the resources of any national wildlife refuge or enjoying any privilege of use thereon for any purpose whatsoever, to comply with any of the provisions, conditions, restrictions, or requirements of this Subchapter C or to comply with any applicable provisions of Federal or State law may render such person liable to:

(1) The penalties as prescribed by law. (Sec. 4, 76 Stat. 654, 16 U.S.C. 460k-3; Sec. 4, 80 Stat. 927, as amended, 16 U.S.C. 668dd(e); Sec. 7, 60 Stat. 1080, 16 U.S.C. 666a; Sec. 6, 40 Stat. 756, as amended, 16 U.S.C. 707; Sec. 7, 48 Stat. 452, 16 U.S.C. 718g; Sec. 2, 33 Stat. 614, as amended, 18 U.S.C. 41.)

§ 28.32 Penalty provisions concerning fires and timber.

(a) Any person violating sections 1855-1856 of the Criminal Code (18 U.S.C. 1855-1856) as they pertain to fires on national wildlife refuge lands of the United States shall be subject to civil action and to the penalty provisions of the law.

(b) Any person violating sections 1852-1853 of the Criminal Code (18 U.S.C. 1852-1853) as they pertain to timber on national wildlife refuge lands of the United States shall be subject to civil action and to the penalty provisions of the law.

Subpart D—Impoundment Procedures

§ 28.41 Impoundment of abandoned property.

Any property abandoned or left unattended without authority on any national wildlife refuge for a period in excess of 72 hours is subject to removal. The expense of the removal shall be borne by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with section 203m of the Federal Property and Administrative Services Act of 1959, as amended (40 U.S.C. 484m), and regulations issued thereunder. Former owners may apply within 3 years for reimbursement for such property, subject to disposal and storage costs and similar expenses, upon sufficient proof of ownership.

§ 28.42 Impounding of domestic animals.

(a) Any animal trespassing on the lands of any national wildlife refuge may be impounded and disposed of in accordance with State statutes insofar as they may be applicable. In the absence of such State statutes, the animals shall be disposed of in accordance with this section.

(b) If the owner is known, prompt written notice of the impounding will be served in person with written receipt obtained or delivery by certified mail with return receipt requested. In the event of his failure to remove the impounded animal within five (5) days from receipt of such notice, it will be sold or otherwise disposed of as prescribed in this section.

(c) If the owner is unknown, no disposition of the animal shall be made until at least fifteen (15) days have elapsed from the date of a legal notice of the impounding has been posted at the county courthouse and 15 days after the second notice published in a newspaper in general circulation in the county in which the trespass took place.

(d) The notice shall state when and where the animal was impounded and shall describe it by brand or earmark or distinguishing marks or by other reasonable identification. The notice shall specify the time and place the animal will be offered at public sale to the highest bidder, in the event it is not claimed or redeemed. The notice shall reserve the right of the official conducting the sale to reject any and all bids so received.

(e) Prior to such sale, the owner may redeem the animal by submitting proof of ownership and paying all expenses of the United States for, capturing, impounding, advertising, care, forage, and damage claims.

(f) If an animal impounded under this section is offered at public sale and no bid is received or if the highest bid received is an amount less than the claim of the United States, the animal may be sold at private sale for the highest amount obtainable, or be condemned and destroyed or converted to the use of the United States. Upon the sale of any animal in accordance with this section, the buyer shall be issued a certificate of sale.

(g) In determining the claim of the Federal Government in all livestock trespass cases on national wildlife refuges, the value of forage consumed shall be computed at the commercial unit rate prevailing in the locality for that class of livestock. In addition, the claim shall include damages to national wildlife refuge property injured or destroyed, and all the related expenses incurred in the impounding, caring for and disposing of the animal. The salary of Service employees for the time spent in and about the investigations, reports, and settlement or prosecution of the case shall be prorated in computing the expense. Payment of claims due the United States shall be made by certified check or postal money order payable to the U.S. Fish and Wildlife Service.

§ 28.43 Destruction of dogs and cats.

Dogs and cats running at large on a national wildlife refuge and observed by an authorized official in the act of killing, injuring, harassing or molesting humans or wildlife may be disposed of in the interest of public safety and protection of the wildlife.

PART 29—LAND USE MANAGEMENT

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29.31 Mineral ownerships in the United States.
29.32 Mineral rights reserved and excepted.

AUTHORITY: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a, 16 U.S.C. 460k; 80 Stat. 926, unless otherwise noted.

SOURCE: 31 FR 16026, Dec. 15, 1966, unless otherwise noted.

Subpart A—General Rules

§ 29.1 Use of natural resources.

Public or private economic use of the nature resources of any wildlife refuge area may be authorized in accordance with section 401 of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C., sec. 715s), where the use may contribute to or is related to the administration of the area. Economic use shall be authorized by appropriate permit only when the authorized activity on a wildlife refuge area will not be incompatible with the purposes for which the refuge was established. Persons exercising economic privileges on refuge areas will be subject to the applicable provisions of this subchapter and of other applicable laws and regulations governing wildlife refuge areas. Permits for economic use will contain such terms and conditions as are determined to be necessary for the proper administration of the resources. Economic use in this section includes but is not limited to grazing livestock; harvesting hay and stock feed; removing timber, firewood or other natural products of the soil; removing shell, sand, or gravel; cultivating areas; or engaging in operations that facilitate approved programs on wildlife refuge areas.

§ 29.2 Cooperative land management.

Cooperative agreements with persons for crop cultivation, haying, grazing, or the harvest of vegetative products, including plantlife, growing with or without cultivation on wildlife refuge areas may be executed on a share-in-kind basis when such agreements are in aid of or benefit to the wildlife management of the area.

§ 29.3 Nonprogram uses.

Uses of wildlife refuge areas that make no contribution to the primary objective of the program for an individual area or are in no way related to the objectives of the National Wildlife Refuge System are classed as nonprogram uses. Permission for such uses will be granted only when compatible with the major purposes for which such areas are established.

[36 FR 17998, Sept. 8, 1971]

§ 29.4 [Reserved]

§ 29.5 Fees.

Fees and charges for the grant of privileges on wildlife refuge areas and for the sale of products taken therefrom, where not otherwise prescribed by law or regulation, shall be set at a rate commensurate with fees and charges for similar privileges and products made by private land owners in the vicinity or in accordance with their local value. Fees or rates of charge for products and privileges may be based either on a monetary exchange or on a share in kind of the resource or product.

Subpart B—Rights-of-Way General Regulations

§ 29.21 Definitions.

(a) "Secretary" means Secretary of the Interior or his authorized representatives acting under delegated authority.

(b) "Service" means U.S. Fish and Wildlife Service.

(c) "Regional director" means the regional director for one of the Service's seven regions.

(d) "Project Manager" means the officer in charge of the land under administration by the U.S. Fish and Wildlife Service.

(e) "National Wildlife Refuge System land" means lands and waters, or interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas.

(f) "Easement area" means land, or interests therein, over which the Secretary administers an easement for waterfowl management rights to assure preservation of waterfowl nesting habitat.

(g) "Other lands" means all other lands, or interests therein, and waters administered by the Secretary through the U.S. Fish and Wildlife Service which are not included in National Wildlife Refuge System lands, e.g., administrative sites, research stations, fish hatcheries, and fishery research stations.

(h) "Compatible" means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are established. The term "inconsistant" in section 28(b)(1) of the Mineral Leasing Act of 1920, as amended by Pub. L. 93-153, shall be deemed to mean a use that is "not compatible", as "compatible" is defined herein.

(i) "Department" means U.S. Department of the Interior unless otherwise specified.

(16 U.S.C. 668dd)

[34 FR 19907, Dec. 19, 1969, as amended at 39 FR 5490, Feb. 13, 1974; 42 FR 43917, Aug. 31, 1977; 44 FR 42976, July 23, 1979; 48 FR 31655, July 11, 1983]

§ 29.21-1 Purpose and scope.

The regulations in this subpart prescribe the procedures for filing applications and the terms and conditions under which rights-of-way over and across the lands administered by the U.S. Fish and Wildlife Service may be granted.

(a) *National Wildlife Refuge System lands.* Applications for all forms of rights-of-way on or over such lands shall be submitted under authority of Pub. L. 89-669, (80 Stat. 926; 16 U.S.C. 668dd) as amended, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153, following application procedures set out in § 29.21-2. No right-of-way will be approved unless it is determined by the Regional Director to be compatible. See § 29.21-8 for additional requirements applicable to rights-of-way for electric power transmission lines and § 29.21-9 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(b) *National Wildlife Refuge System lands—easement interest.* Applications for all forms of rights-of-way across lands in which the United States owns only an easement interest may be submitted to the Regional Director in letter form. No map exhibit is required, however, the affected land should be described in the letter or shown on a map sketch. If the requested right-of-way will not adversely affect the United States' interest, the Regional Director may issue a letter stating that the interest of the United States to the right-of-way easement would not be affected provided there would be no objection to a right-of-way by the fee owner. If the interest of the United States will be affected, application for the right-of-way must be submitted in accordance with procedures set out in § 29.21-2.

(c) *Other lands outside the National Wildlife Refuge System.* Rights-of-way on or over other lands will be granted in accordance with controlling authorities cited in 43 CFR Part 2800, or for oil and gas pipelines under section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449; 30 U.S.C. 185) as amended by Pub. L. 93-153. See § 29.21-8 for additional requirements applicable to rights-of-way for electric power transmission lines and § 29.21-9 for additional requirements applicable to rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any other refined product produced therefrom. Applications will be submitted in accordance with procedures set out in § 29.21-2.

(16 U.S.C. 668dd)

[34 FR 19907, Dec. 19, 1969, as amended at 36 FR 2402, Feb. 4, 1971; 39 FR 5490, Feb. 13, 1974; 42 FR 43917, Aug. 31, 1977; 44 FR 42976, July 23, 1979; 48 FR 31655, July 11, 1983]

§ 29.21-2 Application procedures.

(a) *Application.* (1) No special form of application is required. The application should state the purpose for which the right-of-way is being requested together with the length, width on each side of the centerline, and the estimated acreage. Applications, including exhibits, shall be filed in triplicate with the Regional Director for the region in which the State is located. A list of States in each region and the addresses of the Regional Directors are contained in paragraph (c) of this section.

(2)(i) All applications filed pursuant to this subpart in the name of individuals, corporations, or associations must be accompanied by a nonreturnable application fee. No application fee will be required of (A) State of local governments or agencies or instrumentalities thereof except as to rights-of-way, easements or permits under section 28 of the Mineral Leasing Act of 1920, as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Application fees will be in accordance with the following schedule:

(A) For linear facilities (e.g., powerlines, pipelines, roads, etc.).

Length	Payment
Less than 5 miles	$50 per mile or fraction thereof.
5 to 20 miles	$500.
20 miles and over	$500 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, $250 for each 40 acres or fraction thereof.

(C) Where an application includes both linear and nonlinear facilities, payment will be the aggregate of amounts under paragraphs (a) (2) (ii) (A) and (B) of this section.

(D) When an application is received, the Regional Director will estimate the costs expected to be incurred in processing the application. If the estimated costs exceed the payments under paragraph (a)(2)(ii) (A), (B), or (C) of this section by an amount greater than the cost of maintaining actual cost records, the Regional Director shall require the applicant to make periodic payments in advance of the incurrence of such costs by the United States except for the last payment which will reflect final reimbursement for actual costs of the United States in processing the application. Overpayments may be refunded or adjusted by the Regional Director as appropriate.

(E) The Regional Director shall, on request by an applicant or prospective applicant, give an estimate based on the best available cost information, of the costs which would be incurred by the United States in processing an application. However, reimbursement will not be limited to the estimate of the Regional Director if the actual costs exceed the estimate. Prospective applicants are encouraged to consult with the Regional Director in advance of filing an application in regard to probable costs and other requirements.

(3)(i) By accepting an easement or permit under this subpart, the holder agrees to reimburse the United States for reasonable costs incurred by the Fish and Wildlife Service in monitoring the construction, operation, maintenance, and termination of facilities within or adjacent to the easement or permit area. No reimbursement of monitoring costs will be required of (A) State or local governments or agencies or instrumentalities thereof except as to right-of-way, easements, or permits granted under section 28 of the Mineral Leasing Act of 1920 as amended by Pub. L. 93-153, or (B) Federal Government agencies.

(ii) Within 60 days of the issuance of an easement or permit the holder must submit a nonreturnable payment in accordance with the following:

(A) For linear facilities e.g., powerlines, pipelines, roads, etc.).

Length	Payment
Less than 5 miles	$20 per mile or fraction thereof.
5 to 20 miles	$200.
20 miles and over	$200 for each 20 miles or fraction thereof.

(B) For nonlinear facilities, $100 for each 40 acres or fraction thereof.

(C) Where an easement or permit includes both linear and nonlinear facilities, payment will be the aggregate amounts under paragraph (a) (3) (2) (ii) (A) and (B) of this section.

(D) When an easement or permit is granted the Regional Director shall estimate the costs, based on the best available cost information, expected to be incurred by the United States in monitoring holder activity. If the estimated costs exceed the payments under paragraph (a) (3) (2) (ii), (A), (B), or (C) of this section by an amount which is greater than the cost of maintaining actual cost records for the monitoring process, the Regional Director shall require the holder to make periodic payments of the estimated reimbursable costs prior to the incurrence of such costs by the United States. Overpayments may be refunded or adjusted by the Regional Director as appropriate.

(E) Following the termination of an easement or permit, the former holder will be required to pay additional amounts to the extent the actual costs to the United States have exceeded the payments required by paragraphs (a)(3)(ii)(A), (B), and (C) of this section.

(4) All applications filed pursuant to this subpart must include a detailed environmental analysis which shall include information concerning the impact of the proposed use of the environment including the impact on air and water quality; scenic and esthetic features; historic, architectural, archeological, and cultural features; wildlife, fish and marine life, etc. The analysis shall include sufficient data so as to enable the Service to prepare an environmental assessment and/or impact statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and comply with the requirements of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 et seq.), Executive Order 11593 "Protection and Enhancement of the Cultural Environment" of May 13, 1971 (36 FR 8921), and "Procedures for the Protection of Historic and Cultural Properties" (36 CFR, Part 800). Concerning the National Environmental Policy Act, the Regional Director may, at his discretion, rely on an environmental assessment or impact statement prepared by a "lead agency."

(b) *Maps.* A map or plat must accompany each copy of the application and must show the right-of-way in such detail that the right-of-way can be accurately located on the ground. Ties to Service land boundary corner monuments or some prominent cultural features which can be readily recognized and recovered should be shown where the right-of-way enters and leaves Service project land together with courses and distances of the centerline. The width of the right-of-way on each side of the centerline together with the acreage included within the right-of-way or site must also be shown. If the right-of-way or site is located wholly within Service project land, a tie to a Government corner or prominent cultural feature which can be readily recognized and recovered should be shown.

(c) *Regional or Area Director's Addresses.*

(1) For the States of California, Hawaii, Idaho, Nevada, Oregon and Washington:

Regional Director, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 N.E. Multnomah Street, Portland Oregon 97232.

(2) For the States of Arizona, New Mexico, Oklahoma, and Texas:

Regional Director, U.S. Fish and Wildlife Service, 500 Gold Avenue, P.O. Box 1306, Albuquerque, New Mexico 87103.

(3) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin:

Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(4) For the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and Virgin Islands:

Regional Director, U.S. Fish and Wildlife Service, Richard B. Russell, Federal Building, Suite 1200, 75 Spring Street, S.W., Atlanta, Georgia 30303.

(5) For the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia:

Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 03158.

(6) For the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming:

Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

(7) For the State of Alaska:

Regional Director, U.S. Fish and Wildlife Service, 1101 E. Tudor Road, Anchorage, Alaska 99503.

(16 U.S.C. 668dd)

[31 FR 16026, Dec. 15, 1966, as amended at 42 FR 43917, Aug. 31, 1977; 44 FR 42976, July 23, 1979; 48 FR 31655, July 11, 1983]

§ 29.21-3 Nature of interest granted.

(a) Where the land administered by the Secretary is owned in fee by the United States and the right-of-way is compatible with the objectives of the area, permit or easement may be approved and granted by the Regional Director. Generally an easement or permit will be issued for a term of 50 years or so long as it is used for the purpose granted, or for a lesser term when considered appropriate. For rights-of-way granted under authority of section 28 of the Mineral Leasing Act of 1920, as amended, for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, the grant may be for a term not to exceed 30 years and the right-of-way may not exceed 50 feet, plus the area occupied by the pipeline and its related facilities unless the Regional Director finds, and records the reasons for his finding, that, in his judgment, a wider right-of-way is necessary for operation and maintenance after construction, or to protect the environment or public safety. Related facilities include but are not limited to valves, pump stations, supporting structures, bridges, monitoring and communication devices, surge and storage tanks, terminals, etc. However, a temporary permit supplementing a right-of-way may be granted for additional land needed during construction, operation, maintenance, or termination of the pipeline, or to protect the natural environment or public safety.

(b) Unless otherwise provided, no interest granted shall give the grantee any right whatever to remove any material, earth, or stone for construction or other purpose, except that stone or earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project.

[31 FR 16026, Dec. 15, 1966, as amended at 42 FR 43918, Aug. 31, 1977]

§ 29.21-4 Terms and conditions.

(a) Any right-of-way easement or permit granted will be subject to outstanding rights, if any, in third parties.

(b) An applicant, by accepting an easement or permit agrees to such terms and conditions as may be prescribed by the Regional Director in the granting document. Such terms and conditions shall include the following, unless waived in part by the Regional Director, and may include additional special stipulations at his discretion. See § 29.21-8 for special requirements for electric powerlines and § 29.21-9 for special requirements for oil and gas pipelines.

(1) To comply with State and Federal laws applicable to the project within which the easement or permit is granted, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.

(2) To clear and keep clear the lands within the easement or permit area to the extent and in the manner directed

by the project manager in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the project manager may specify.

(3) To prevent the disturbance or removal of any public land survey monument or project boundary monument unless and until the applicant has requested and received from the Regional Director approval of measures the applicant will take to perpetuate the location of aforesaid monument.

(4) To take such soil and resource conservation and protection measures, including weed control on the land covered by the easement or permit as the project manager in charge may request.

(5) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near, lands to be occupied under the easement or permit area, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(6) To rebuild and repair such roads, fences, structures, and trails as may be destroyed or injured by construction work and upon request by the Regional Director, to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

(7) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under the easement or permit, except where the easement or permit is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages. Where the easement of permit involves lands which are under the exclusive jurisdiction of the United States, the holder or his employees, contractors, or agents of the contractors, shall be liable to third parties for injuries incurred in connection with the easement or permit area. Grants of easements or permits involving special hazards will impose liability without fault for injury and damage to the land and property of the United States up to a specified maximum limit commensurate with the foreseeable risks or hazards presented. The amount of no-fault liability for each occurrence is hereby limited to no more than $1,000,000.

(8) To notify promptly the project manager in charge of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction and maintenance of the project, and to pay the United States in advance of construction such sum of money as the project manager may determine to be the full stumpage value of the timber to be so cut, removed, or destroyed.

(9) That all or any part of the easement or permit granted may be terminated by the Regional Director, for failure to comply with any or all of the terms or conditions of the grant, or for abandonment. A rebuttable presumption of abandonment is raised by deliberate failure of the holder to use for any continuous 2-year period the easement or permit for the purpose for which it was granted or renewed. In the event of noncompliance of abandonment, the Regional Director will notify in writing the holder of the easement or permit of his intention to suspend or terminate such grant 60 days from the date of the notice, stating the reasons therefor, unless prior to that time the holder completes such corrective actions as are specified in the notice. The Regional Director may grant an extension of time within which to complete corrective actions when, in his judgment, extenuating circumstances not within the holder's control such as adverse weather conditions, disturbance to wildlife during breeding periods or periods of peak concentration, or other compelling

reasons warrant. Should the holder of a right-of-way issued under authority of the Mineral Leasing Act, as amended, fail to take corrective action within the 60-day period, the Regional Director will provide for an administrative proceeding pursuant to 5 U.S.C. 554, prior to a final Departmental decision to suspend or terminate the easement or permit. In the case of all other right-of-way holders, failure to take corrective action within the 60-day period will result in a determination by the Regional Director to suspend or terminate the easement or permit. No administrative proceeding shall be required where the easement or permit terminates under its terms.

(10) To restore the land to its original condition to the satisfaction of the Regional Director so far as it is reasonably possible to do so upon revocation and/or termination of the easement or permit, unless this requirement is waived in writing by the Regional Director. Termination also includes permits or easements that terminate under the terms of the grant.

(11) To keep the project manager informed at all times of his address, and, in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.

(12) That in the construction, operation, and maintenance of the project, he shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall require an identical provision to be included in all subcontracts.

(13) That the grant of the easement or permit shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the land affected thereby. The applicant agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the easement of permit area not actually occupied for the purpose of the granted rights to the extent that it does not interfere with the full and safe utilization thereof by the holder. The holder of an easement or permit also agrees that authorized representatives of the United States shall have the right of access to the easement or permit area for the purpose of making inspections and monitoring the construction, operation and maintenance of facilities.

(14) That the easement or permit herein granted shall be subject to the express covenant that any facility constructed thereon will be modified or adapted, if such is found by the Regional Director to be necessary, without liability or expense to the United States, so that such facility will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States. Any such modification will be planned and scheduled so as not to interfere unduly with or to have minimal effect upon continuity of energy and delivery requirements.

(15) That the easement or permit herein granted shall be for the specific use described and may not be construed to include the further right to authorize any other use within the easement or permit area unless approved in writing by the Regional Director.

[31 FR 16026, Dec. 15, 1966, as amended at 42 FR 43918, Aug. 31, 1977]

§ 29.21-5 Construction.

(a) If construction is not commenced within two (2) years after date of right-of-way grant, the right-of-way may be canceled by the Director of the U.S. Fish and Wildlife Service at his discretion.

(b) Proof of construction: Upon completion of construction, the applicant shall file a certification of completion with the Regional Director.

[42 FR 43919, Aug. 31, 1977]

§ 29.21-6 Disposal, transfer or termination of interest.

(a) *Change in jurisdiction over and disposal of lands.* The final disposal by the United States of any tract of land traversed by a right-of-way shall not be construed to be a revocation of the right-of-way in whole or in part, but such final disposition shall be deemed and taken to be subject to such right-of-way unless it has been specifically canceled.

(b) *Transfer of easement or permit.* Any proposed transfer, by assignment, lease, operating agreement or otherwise, of an easement or permit must be filed in triplicate with the Regional Director and must be supported by a stipulation that the transferee agrees to comply with and be bound by the terms and conditions of the original grant. A $25 nonreturnable service fee must accompany the proposal. No transfer will be recognized unless and until approved in writing by the Regional Director.

(c) *Disposal of property on termination of right-of-way.* In the absence of any agreement to the contrary, the holder of the right-of-way will be allowed 6 months after termination to remove all property or improvements other than a road and useable improvements to a road, placed thereon by him; otherwise, all such property and improvements shall become the property of the United States. Extensions of time may be granted at the discretion of the Regional Director.

[31 FR 16026, Dec. 15, 1966, as amended at 42 FR 43919, Aug. 31, 1977]

§ 29.21-7 Payment required.

(a) Payment for use and occupancy of lands under the regulations of this subpart will be required and will be for fair market value as determined by appraisal by the Regional Director. At the discretion of the Regional Director, the payment may be a lump sum payment or an annual fair market rental payment, to be made in advance. If any Federal, State or local agency is exempted from such payment by and any other provision of Federal law, such agency shall otherwise compensate the Service by any other means agreeable to the Regional Director, including, but not limited to, making other land available or the loan of equipment or personnel, except that any such compensation shall relate to, and be consistent with the objectives of the National Wildlife Refuge System. The Regional Director may waive such requirement for compensation if he finds such requirement impracticable or unnecessary.

(b) When annual rental payments are used, such rates shall be reviewed by the Regional Director at any time not less than 5 years after the grant of the permit, right-of-way, or easement or the last revision of charges thereunder. The Regional Director will furnish a notice in writing to the holder of an easement or permit of intent to impose new charges to reflect fair market value commencing with the ensuing charge year. The revised charges will be effective unless the holder files an appeal in accordance with § 29.22.

(c) In instances where damage to a unit of the National Wildlife Refuge System will result, the Regional Director may require mitigation measures, as determined by him, within the easement or permit area or on adjacent Service land or replacement land to make the proposed use compatible with the purposes for which the unit of the system was established. Such mitigation measures, and/or the replacement of land, are solely for the purpose of complying with the requirement of the National Wildlife Refuge System Administrative Act that the use be compatible with the purpose for which the area was established and shall be in addition to the payment of fair market value.

[42 FR 43919, Aug. 31, 1977]

§ 29.21-8 Electric power transmission line rights-of-way.

By accepting a right-of-way for a power transmission line, the applicant thereby agrees and consents to comply with and be bound by the following terms and conditions, except those which the Secretary may waive in a particular case, in addition to those specified in § 29.21-4(b).

(a) To protect in a workmanlike manner, at crossings and at places in proximity to his transmission lines on the right-of-way authorized, in accordance with the rules prescribed in the National Electric Safety Code, all Government and other telephone, telegraph and power transmission lines from contact and all highways and railroads from obstruction and to maintain his transmission lines in such manner as not to menace life or property.

(b) Neither the privilege nor the right to occupy or use the lands for the purpose authorized shall relieve him of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated, or maintained by him on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.

(16 U.S.C. 668dd)

[42 FR 43919, Aug. 31, 1977, as amended at 48 FR 31655, July 11, 1983]

§ 29.21-9 Rights-of-way for pipelines for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom.

(a) *Application procedure.* Applications for pipelines and related facilities under this section are to be filed in accordance with § 29.21-2 of these regulations with the following exception:

> When the right-of way or proposed facility will occupy Federal land under the control of more than one Federal Agency and/or more than one bureau or office of the Department of the Interior, a single application shall be filed with the appropriate State Director of the Bureau of Land Management in accordance with regulations in 43 CFR Part 2800.

Any portion of the facility occupying land of the National Wildlife Refuge System will be subject to the provisions of these regulations.

(b) *Right-of-way grants* under this section will be subject to the special requirements of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended, as set forth below. Gathering lines and associated structures used solely in the production of oil and gas under valid leases on the lands administered by the Fish and Wildlife Service are excepted from the provisions of this section.

(1) *Pipeline safety.* Rights-of-way or permits granted under this section will include requirements that will protect the safety of workers and protect the public from sudden ruptures and slow degradation of the pipeline. An applicant must agree to design, construct, and operate all proposed facilities in accordance with the provisions of Parts 192 and/or 195 of Title 49 of the CFR and in accordance with the Occupational Safety and Health Act of 1970, Pub. L. 91-596, including any amendments thereto.

(2) *Environmental protection.* An application for a right-of-way must contain environmental information required by § 29.21-2(a)(4) of this subpart. If the Regional Director determines that a proposed project will have a significant affect on the environment, there must also be furnished a plan of construction, operations, and rehabilitation of the proposed facilities. In addition to terms and conditions imposed under § 29.21-4, the Regional director will impose such stipulations as may be required to assure: (i) Restoration, revegetation and curtailment of erosion of the surface; (ii) that activities in connection with the right-of-way or permit will not violate applicable air and water quality standards in related facilities siting standards established by law; (iii) control or prevention of damage to the environment including damage to fish and wildlife habitat, public or private property, and public health and safety; and (iv) protection of the interests of individuals living in the general area of the right-of-way or permit who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(c) *Disclosure.* If the applicant is a partnership, corporation, association, or other business entity it must disclose the identity of the participants in the entity. Such disclosure shall include where applicable (1) the name and address of each partner, (2) the name and address of each shareholder owning 3 percentum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote, and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate.

(d) *Technical and financial capability.* The Regional Director may grant or renew a right-of-way or permit under this section only when he is satisfied that the applicant has the technical and financial capability to construct, operate, maintain and terminate the facility. At the discretion of the Regional Director, a financial statement may be required.

(e) *Reimbursement of costs.* In accordance with § 29.21-2(a)(3) of this subpart, the holder of a right-of-way or permit must reimburse the Service for the cost incurred in monitoring the construction, operation, maintenance, and termination of any pipeline or related facilities as determined by the Regional Director.

(f) *Public hearing.* The Regional Director shall give notice to Federal, State, and local government agencies, and the public, and afford them the opportunity to comment on right-of-way applications under this section. A notice will be published in the FEDERAL REGISTER and a public hearing may be held where appropriate.

(g) *Bonding.* Where appropriate the Regional Director may require the holder of a right-of-way or permit to furnish a bond, or other security satisfactory to him, to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or permit or by any rule or regulation, not to exceed the period of construction plus one year or a longer period if necessary for the pipeline to stabilize.

(h) *Suspension of right-of-way.* If the Project Manager determines that an immediate temporary suspension of activities within a right-of-way or permit area is necessary to protect public health and safety or the environment, he may issue an emergency suspension order to abate such activities prior to an administrative proceeding. The Regional Director must make a determination and notify the holder in writing within 15 days from the date of suspension as to whether the suspension should continue and list actions needed to terminate the suspension. Such suspension shall remain in effect for only so long as an emergency condition continues.

(i) *Joint use of rights-of-way.* Each right-of-way or permit shall reserve to the Regional Director the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way or permit areas granted under this section after giving notice to the holder and an opportunity to comment.

(j) *Common carriers.* (1) Pipelines and related facilities used for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom shall be constructed, operated, and maintained as common carriers.

(2)(i) The owners or operators of pipelines subject to this subpart shall accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to whether such oil or gas was produced on Federal or non-Federal lands.

(ii) In the case of oil or gas produced from Federal lands or from the resources on the Federal lands in the vicinity of the pipelines, the Secretary may, after a full hearing with due notice thereof to the interested parties and a proper finding of facts, determine the proportionate amounts to be accepted, conveyed, transported or purchased.

(3)(i) The common carrier provisions of this section shall not apply to any natural gas pipeline operated by any person subject to regulation under the Natural Gas Act or by any public utility subject to regulation by a State or municipal regulatory agency having jurisdiction to regulate the rates and charges for the sale of natural gas to consumers within the State or municipality.

(ii) Where natural gas not subject to state regulatory or conservation laws governing its purchase by pipelines is offered for sale, each such pipeline shall purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline.

(4) The Regional Director shall require, prior to granting or renewing a right-of-way, that the applicant submit and disclose all plans, contracts, agreements, or other informa-

tion or material which he deems necessary to determine whether a right-of-way shall be granted or renewed and the terms and conditions which should be included in the right-of-way. Such information may include, but is not limited to: (i) Conditions for, and agreements among owners or operators, regarding the addition of pumping facilities, looping, or otherwise increasing the pipeline or terminal's throughput capacity in response to actual or anticipated increases in demand; (ii) conditions for adding or abandoning intake, offtake, or storage points or facilities; and (iii) minimum shipment or purchase tenders.

(k) *Limitations on export.* Any domestically produced crude oil transported by pipeline over rights-of-way granted pursuant to section 28 of the Mineral Leasing Act of 1920, except such crude oil which is either exchanged in similar quantity for convenience or increased efficiency of transportation with persons or the government of an adjacent foreign state, or which is temporarily exported for convenience or increased efficiency of transportation across parts of an adjacent foreign state and reenters the United States, shall be subject to all of the limitation and licensing requirements of the Export Administration Act of 1969.

(l) *State standards.* The Regional Director shall take into consideration, and to the extent practical comply with, applicable State standards for right-of-way construction, operation, and maintenance.

(m) *Congressional notification.* The Secretary shall notify the House and Senate Committees on Interior and Insular Affairs promptly upon receipt of an application for a right-of-way for pipeline 24 inches or more in diameter, and no right-of-way for such a pipeline shall be granted until 60 days (not including days on which the House or Senate has adjourned for more than three days) after a notice of intention to grant the right-of-way together with the Secretary's detailed findings as to terms and conditions he proposes to impose, has been submitted to the Committees, unless each Committee by resolution waives the waiting period.

[42 FR 43921, Aug. 31, 1977]

§ 29.22 Hearing and appeals procedures.

An appeal may be taken from any final disposition of the Regional Director to the Director, U.S. Fish and Wildlife Service, and, except in the case of a denial of a right-of-way application, from the latter's decision to the Secretary of the Interior. Appeals to the Secretary shall be taken pursuant to 43 CFR Part 4, Subpart G.

[44 FR 42976, July 23, 1979]

Subpart C—Mineral Operations

§ 29.31 Mineral ownerships in the United States.

Where mineral rights to lands in wildlife refuge areas are vested in the United States, the provisions of 43 CFR 3101.3-3, 3109.4, 3201.1-6 and 3501.2-2 govern.

[31 FR 16026, Dec. 15, 1966, as amended at 44 FR 42976, July 23, 1979]

§ 29.32 Mineral rights reserved and excepted.

Persons holding mineral rights in wildlife refuge lands by reservation in the conveyance to the United States and persons holding mineral rights in such lands which rights vested prior to the acquisition of the lands by the United States shall, to the greatest extent practicable, conduct all exploration, development, and production operations in such a manner as to prevent damage, erosion, pollution, or contamination to the lands, waters, facilities and vegetation of the area. So far as is practicable, such operations must also be conducted without interference with the operation of the refuge or disturbance to the wildlife thereon. Physical occupancy of the area must be kept to the minimum space compatible with the conduct of efficient mineral operations. Persons conducting mineral operations on refuge areas must comply with all applicable Federal and State laws and regulations for the protection of wildlife and the administration of the area. Oil field brine, slag, and all other waste and contaminating substances must be kept in the smallest practicable area, must be confined so as to prevent escape as a result of rains and high water or otherwise, and must be removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage, or injury to the lands, waters, facilities, or vegetation of the refuge or to wildlife. Structures and equipment must be removed from the area when the need for them has ended. Upon the cessation of operations the area shall be restored as nearly as possible to its condition prior to the commencement of operations. Nothing in this section shall be applied so as to contravene or nullify rights vested in holders of mineral interests on refuge lands.

PART 30—RANGE AND FERAL ANIMAL MANAGEMENT

Subpart A—Range Animals

Sec.

30.1 Surplus range animals.
30.2 Disposition of surplus range animals.

Subpart B—Feral Animals

30.11 Control of feral animals.
30.12 Disposition of feral animals.

AUTHORITY: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 2, 48 Stat. 1270; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

Subpart A—Range Animals

§ 30.1 Surplus range animals.

Range animals on fenced wildlife refuge areas, including buffalo and longhorn cattle, determined to be surplus to the needs of the conservation program may be planned and scheduled for disposal.

[38 FR 16356, June 22, 1973]

§ 30.2 Disposition of surplus range animals.

Disposition shall be made only during regularly scheduled disposal program periods, except in the event of emergency conditions affecting the animals or their range. Surplus range animals may be disposed of, subject to State and Federal health laws and regulations, by donation to public agencies or institutions that are entirely tax supported, or charitable institutions, for specific purposes, or sold on the open market.

[38 FR 16356, June 22, 1973]

Subpart B—Feral Animals

§ 30.11 Control of feral animals.

(a) Feral animals, including horses, burros, cattle, swine, sheep, goats, reindeer, dogs, and cats, without ownership that have reverted to the wild from a domestic state may be taken by authorized Federal or State personnel or by private persons operating under permit in accordance with applicable provisions of Federal or State law or regulation.

[31 FR 16027, Dec. 15, 1966]

§ 30.12 Disposition of feral animals.

Feral animals taken on wildlife refuge areas may be disposed of by sale on the open market, gift or loan to public or private institutions for specific purposes, and as otherwise provided in section 401 of the act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s).

[38 FR 16356, June 22, 1973]

PART 31—WILDLIFE SPECIES MANAGEMENT

Subpart A—Surplus Wildlife

Sec.

31.1 Determination of surplus wildlife populations.
31.2 Methods of surplus wildlife population control and disposal.

Subpart B—Terms and Conditions of Wildlife Reduction and Disposal

31.11 Donation and loan of wildlife specimens.
31.12 Sale of wildlife specimens.
31.13 Commercial harvest of fishery resources.
31.14 Official animal control operations.
31.15 Public hunting and fishing programs.
31.16 Trapping program.
31.17 Disposal of furs and pelts.

AUTHORITY: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718(b), 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

SOURCE: 31 FR 16027, Dec. 15, 1966, unless otherwise noted.

Subpart A—Surplus Wildlife

§ 31.1 Determination of surplus wildlife populations.

The populations and requirements of wildlife species on wildlife refuge areas shall be determined by population census, habitat evaluation, and other means of ecological study.

§ 31.2 Methods of surplus wildlife population control and disposal.

Upon a determination that wildlife are surplus to a balanced conservation program on any wildlife refuge area, the surplus may be reduced or utilized in accordance with Federal and State law and regulation by:

(a) Donation or loan to public agencies and institutions.

(b) Sale to public or private agencies and institutions.

(c) Commercial harvest of fishery resources.

(d) Official wildlife control operations.

(e) Public hunting or fishing.

(f) Trapping.

Subpart B—Terms and Conditions of Wildlife Reduction and Disposal

§ 31.11 Donation and loan of wildlife specimens.

Wildlife specimens may be donated or loaned to public institutions for specific purposes. Donation or loans of resident species of wildlife will not be made unless the recipient has secured the approval of the State.

[38 FR 16356, June 22, 1973]

§ 31.12 Sale of wildlife specimens.

Surplus wildlife specimens may be sold alive or butchered, dressed and processed subject to Federal and State laws and regulations and the provisions of this part.

§ 31.13 Commercial harvest of fishery resources.

Fishery resources of commercial importance on wildlife refuge areas may be taken under permit in accordance with Federal and State law and regulation.

§ 31.14 Official animal control operations.

(a) Animal species which are surplus or detrimental to the management program of a wildlife refuge area may be taken in accordance with Federal and State laws and regulations by Federal or State personnel or by permit issued to private individuals.

(b) Animal species which are damaging or destroying Federal property within a wildlife refuge area may be taken or destroyed by Federal personnel.

§ 31.15 Public hunting and fishing programs.

The privilege of hunting and fishing may be extended to the general public under the provisions of regulations cited in Parts 32 and 33 of this subchapter.

§ 31.16 Trapping program.

Except as hereafter noted, persons trapping animals on wildlife refuge areas where trapping has been authorized shall secure and comply with the provisions of a Federal permit issued for that purpose. This permit shall specify the terms and conditions of trapping activity and the rates of charge or division of pelts, hides, and carcasses. Lands acquired as "waterfowl production areas" shall be open to public trapping without Federal permit provided that trapping on all or part of individual areas may be temporarily suspended by posting upon occasions of unusual or critical conditions affecting land, water, vegetation, or wildlife populations. Each person trapping on any wildlife refuge area shall possess the required State license or permit and shall comply with the provisions of State laws and regulations.

[36 FR 17998, Sept. 8, 1971]

§ 31.17 Disposal of furs and pelts.

The disposition of animals and the pelts or carcasses thereof accruing to the United States through the trapping programs shall be sold by public auction or on the open market unless required for official purposes.

PART 32—HUNTING

Subpart A—General Provisions

Sec.

32.1 Opening of wildlife refuge areas to hunting.
32.2 General provisions.
32.3 Procedures for publication of refuge-specific hunting regulations.
32.4 Areas closed to hunting.

Subpart B—Migratory Game Bird Hunting

32.11 List of open areas; migratory game birds.
32.12 Refuge-specific regulations; migratory game birds.

Subpart C—Resident Game Hunting

32.21 List of open areas; upland game.
32.22 Refuge-specific regulations; upland game.
32.31 List of open areas; big game.
32.32 Refuge-specific regulations; big game.

Subpart D—Information Collection

32.41 Approved information collection requirements.

AUTHORITY: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 4, 48 Stat. 451, as amended, sec. 2, 48 Stat. 1270, sec. 4, 76 Stat. 654, as amended, sec. 4, 80 Stat. 927; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k, 668dd; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb; Proclamation 2416, 5 FR 2677, 3 CFR, 1938-1943 Comp., p. 167; E.O. 1014 (Jan. 26, 1909).

SOURCE: 31 FR 16028, Dec. 15, 1966, unless otherwise noted.

EDITORIAL NOTE: Amendments to §§ 32.12, 32.22, and 32.32, published at 50 FR 35818, 35821, and 35822, Sept. 4, 1985, and effective October 4, 1985, have been incorporated into this volume.

Subpart A—General Provisions

§ 32.1 Opening of wildlife refuge areas to hunting.

The opening of a wildlife refuge area to hunting will be dependent upon the provisions of law applicable to the area and upon a determination by the Secretary that the opening of the area to the hunting of migratory game birds, upland game, or big game will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. The opening or closing of wildlife refuge areas to hunting shall be in accordance with the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 1001-1011). Lands acquired pursuant to the Act of May 18, 1948 (62 Stat. 238, 16 U.S.C. 695) will be opened to hunting only after it has been determined that the major portion of the crops in the vicinity of the area involved have been harvested, that the period of susceptibility of such crops to wildfowl depredation has passed, or that the possibility of these crops being damaged by waterfowl is minor. Lands acquired as "waterfowl production areas" shall annually be open to the hunting of migratory game birds, upland game, and big game subject to the provisions of State law and regulations and the pertinent provisions of Parts 25 through 31 of this subchapter: *Provided,* That all forms of hunting or entry on all or any part of individual areas may be temporarily suspended by posting upon occasions of unusual or critical conditions of, or affecting land, water, vegetation, or wildlife populations.

§ 32.2 General provisions.

The following provisions shall apply to each person while engaged in public hunting on a wildlife refuge area:

(a) Each person shall secure and possess the required State license.

(b) Each person 16 years of age and older shall secure and possess a Migratory Bird Hunting Stamp while hunting migratory waterfowl.

(c) Each person shall comply with the applicable provisions of Federal law and regulations including this subchapter and the current Federal Migratory Bird Regulations.

(d) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless further restricted by Federal law or regulation.

(e) Each person shall comply with the terms and conditions authorizing access or use of wildlife refuges, including the terms and conditions under which hunting permits are issued.

(f) Each person shall comply with the provisions of any refuge-specific regulations governing hunting on the wildlife refuge area. Regulations, special conditions and maps of the hunting areas for a particular wildlife refuge are available at that area's headquarters. In addition, refuge-specific hunting regulations for migratory game bird, upland game and big game hunting are codified in §§ 32.12, 32.22 and 32.32, respectively.

(g) The use of any drug on any arrow for bow hunting on national wildlife refuges is prohibited. Archers may not have arrows employing such drugs in their possession on any national wildlife refuge.

(h) The unauthorized distribution of bait and the hunting over bait is prohibited on wildlife refuge areas. (Baiting is authorized in accordance with State regulations on national wildlife refuges in Alaska).

(i) The use of nails, wire, screws or bolts to attach a stand to a tree, or hunting from a tree into which a metal object has been driven to support a hunter is prohibited on wildlife refuge areas.

[31 FR 16028, Dec. 15, 1966, as amended at 39 FR 32031, Sept. 4, 1974; 49 FR 36740, Sept. 19, 1984; 49 FR 50049, Dec. 26, 1984]

§ 32.3 Procedures for publication of refuge-specific hunting regulations.

(a) Refuge-specific hunting regulations are issued only at the time of or after the determination and publication of the opening of a wildlife refuge area to migratory game bird, upland game or big game hunting.

(b) Refuge-specific hunting regulations may contain the following items:

(1) Wildlife species that may be hunted,

(2) Seasons,

(3) Bag limits,

(4) Methods of hunting,

(5) Description of areas open to hunting, or

(6) Other provisions as required.

(c) Refuge-specific hunting regulations will not liberalize existing State laws or regulations.

(d) Refuge-specific hunting regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(e) Refuge-specific hunting regulations are initially published in the daily issue of the FEDERAL REGISTER and are subsequently codified in 50 CFR 32.12, 32.22 or 32.32.

(f) Refuge-specific hunting regulations may be amended or new conditions imposed at any time during the hunting season when unpredictable changes occur in wildlife populations, habitat conditions or in other factors affecting a refuge's wildlife resources. Changes in refuge-specific hunting regulations made under the conditions noted above can be in force only for the one season to which the changes apply.

[49 FR 36740, Sept. 19, 1984]

§ 32.4 Areas closed to hunting.

Proclamations and orders		State	Land and waters within boundary and adjacent to, or in the vicinity of—	Citation
No.	Date			
	Nov. 20, 1959	Alabama	Wheeler National Wildlife Refuge	24 FR 9513.
	Oct. 15, 1960	do	do	25 FR 9899.
	Nov. 3, 1970	do	Eufaula National Wildlife Refuge	35 FR 16935.
2325	Mar. 21, 1939	Arkansas	Big Lake National Wildlife Refuge	3 CFR Cum. Supp. 4 FR 1309.
	Oct. 24, 1958	do	Holla Bend National Wildlife Refuge	23 FR 8429.
2274	Mar. 15, 1938	do	White River National Wildlife Refuge	3 FR 591.

Proclamations and orders		State	Land and waters within boundary and adjacent to, or in the vicinity of—	Citation
No.	Date			
	July 13, 1963	Delaware	Bombay Hook National Wildlife Refuge	28 FR 6228.
	Oct. 22, 1953	Florida	St. Marks National Wildlife Refuge	18 FR 7837.
	Oct. 20, 1960	do	do	25 FR 10030.
2758	Dec. 2, 1947	do	"Ding" Darling National Wildlife Refuge.	3 CFR 1947 Supp.; 12 FR 8039.
2329	Apr. 10, 1939	Georgia	Savannah National Wildlife Refuge	3 CFR Cum. Supp.; 4 FR 1595.
	Nov. 3, 1970	do	Eufaula Wildlife Refuge	35 FR 16935.
	Nov. 3, 1970	do	Wassaw National Wildlife Refuge	35 FR 16936.
2748	Oct. 1, 1947	Illinois	Horshoe Lake, Alexander County	3 CFR, 1947 Supp. 12 FR 6521.
	Sept. 9, 1953	do	do	18 FR 5495.
2748	Oct. 2, 1958	Iowa	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp.; 23 FR 7825.
2322	Feb. 7, 1939	Louisiana	Lacassine National Wildlife Refuge	3 CFR, Cum. Suppl. 4 FR 611.
	Sept. 26, 1962	do	Sabine National Wildlife Refuge	27 FR 9516.
	Nov. 19, 1982	do	Delta National Wildlife Refuge	47 FR 52183.
	Dec. 2, 1969	do	Lacassine National Wildlife Refuge	34 FR 19077.
	Aug. 13, 1960	Maryland	Martin National Wildlife Refuge	25 FR 7741.
2817	Oct. 18, 1948	Massachusetts	Parker River National Wildlife Refuge	3 CFR, 1948 Supp. 13 FR 6115.
	Oct. 2, 1958	Minnesota	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp. 23 FR 7825.
2200	Oct. 7, 1936	Montana	Red Rock Lakes National Wildlife Refuge.	1 FR 1554.
	Aug. 30, 1976	do	Charles M. Russell National Wildlife Refuge.	41 FR 31539.
2284	May 9, 1939	North Carolina	Pea Island National Wildlife Refuge	3 FR 912.
2129	July 18, 1935	do	Swanquarter National Wildlife Refuge	49 Stat. 3450.
	Aug. 21, 1963	do	Mackay Island National Wildlife Refuge	28 FR 9209.
	Sept. 22, 1967	do	Pee Dee National Wildlife Refuge	32 FR 13384. 33 FR 749, Jan. 20, 1968.
	Sept. 27, 1984	do	do	49 FR 38141.
2000	June 6, 1932	South Carolina	Cape Romanain National Wildlife Refuge.	47 Stat. 2513.
2329	Apr. 10, 1939	do	Savannah National Wildlife Refuge	3 CFR, Cum. Supp.; 4 FR 1595.
	Sept. 13, 1968	do	Cape Romain National Wildlife Refuge	33 FR 12964.
	Oct. 8, 1963	Tennessee	Cross Creeks National Wildlife Refuge	28 FR 10782.
	Aug. 23, 1956	Texas	Aransas National Wildlife Refuge	21 FR 6513.
2370	Oct. 16, 1939	Virginia	Back Bay National Wildlife Refuge	3 CFR, Cum. Supp. 4 FR 4285.
	Aug. 13, 1954	do	Presquile National Wildlife Refuge	19 FR 5290.
	Jan. 5, 1962	do	Back Bay National Wildlife Refuge	27 FR 104; 27 FR 858.
	Aug. 21, 1963	do	Mackay Island National Wildlife Refuge	28 FR 9209.
	Oct. 9, 1969	do	Mason Neck National Wildlife Refuge	34 FR 15653.
2439	Nov. 7, 1940	Washington	Willapa National Wildlife Refuge	3 CFR, Cum. Supp.; 5 FR 4443.
	Oct. 2, 1958	Wisconsin	Upper Mississippi River Wild Life and Fish Refuge.	3 CFR, 1958 Supp.; 23 FR 7825.

[31 FR 16013, Dec. 15, 1966, as amended at 32 FR 13384, Sept. 22, 1967; 33 FR 749, Jan. 20, 1968; 33 FR 12964, Sept. 13, 1968; 34 FR 15653, Oct. 9, 1969; 34 FR 19077, Dec. 2, 1969; 35 FR 16935, 16936, Nov. 3, 1970. Redesignated at 38 FR 6071, Mar. 6, 1973, and amended at 41 FR 31540, July 29, 1976; 43 FR 26025, June 16, 1978; 44 FR 42976, July 23, 1979; 45 FR 79076, Nov. 28, 1980; 47 FR 52183, Nov. 19, 1982; 49 FR 38141, Sept. 27 1984]

Subpart B—Migratory Game Bird Hunting

§ 32.11 List of open areas; migratory game birds.

The hunting of migratory game birds is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.12.

ALABAMA

Eufaula National Wildlife Refuge.
Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.

Arctic National Wildlife Range.
Cape Newenham National Wildlife Refuge.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Buenos Aires National Wildlife Refuge.
Cibola National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.

ARKANSAS

Felsenthal National Wildlife Refuge.
Holla Bend National Wildlife Refuge.
Overflow National Wildlife Refuge.
Wapanocca National Wildlife Refuge.
White River National Wildlife Refuge.

CALIFORNIA

Cibola National Wildlife Refuge.
Clear Lake National Wildlife Refuge.
Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.
Kern National Wildlife Refuge.
Kesterson National Wildlife Refuge.
Lower Klamath National Wildlife Refuge
Merced National Wildlife Refuge.
Modoc National Wildlife Refuge.
Sacramento National Wildlife Refuge.
Salton Sea National Wildlife Refuge.
San Francisco Bay National Wildlife Refuge.
San Luis National Wildlife Refuge.
Sutter National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Alamosa National Wildlife Refuge.
Arapaho National Wildlife Refuge.
Browns Park National Wildlife Refuge.
Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.
Prime Hook National Wildlife Refuge.

FLORIDA

Chassahowitzka National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
Loxahatchee National Wildlife Refuge.
Merritt Island National Wildlife Refuge.

GEORGIA

Eufaula National Wildlife Refuge.
Savannah National Wildlife Refuge.

IDAHO

Bear Lake National Wildlife Refuge.
Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Grays Lake National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Chautauqua National Wildlife Refuge.
Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

IOWA

De Soto National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Union Slough National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.
Quivira National Wildlife Refuge.

LOUISIANA

Bogue Chitto National Wildlife Refuge
D'Arbonne National Wildlife Refuge.
Delta National Wildlife Refuge.
Lacassine National Wildlife Refuge.
Sabine National Wildlife Refuge.
Tensas River National Wildlife Refuge
Upper Ouachita National Wildlife Refuge.

MAINE

Rachel Carson National Wildlife Refuge

MASSACHUSETTS

Oxbow National Wildlife Refuge
Parker River National Wildlife Refuge.

MICHIGAN

Harbor Island National Wildlife Refuge.
Seney National Wildlife Refuge.
Shiawassee National Wildlife Refuge.

MINNESOTA

Minnesota Valley National Wildlife Refuge.
Sherburne National Wildlife Refuge.
Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Bogue Chitto National Wildlife Refuge.
Hillside National Wildlife Refuge.
Mathews Brake National Wildlife Refuge.
Morgan Brake National Wildlife Refuge.
Noxubee National Wildlife Refuge.
Panther Swamp National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Clarence Cannon National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Mingo National Wildlife Refuge.
Swan Lake National Wildlife Refuge.

MONTANA

Benton Lake National Wildlife Refuge.
Black Coulee National Wildlife Refuge.
Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Refuge.
Creedman Coulee National Wildlife Refuge.
Hailstone National Wildlife Refuge.
Halfbreed Lake National Wildlife Refuge.
Hewitt Lake National Wildlife Refuge.
Lake Mason National Wildlife Refuge.
Lake Thibadeau National Wildlife Refuge.
Lamesteer National Wildlife Refuge.
Lee Metcalf National Wildlife Refuge.
Medicine Lake National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.
Swan River National Wildlife Refuge.
UL Bend National Wildlife Refuge.
War Horse National Wildlife Refuge.

NEBRASKA

DeSoto National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Fallon National Wildlife Refuge.
Pahranagat National Wildlife Refuge.
Ruby Lake National Wildlife Refuge.
Stillwater Wildlife Management Area.

NEW JERSEY

Barnegat National Wildlife Refuge.
Brigantine National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque del Apache National Wildlife Refuge.
Las Vegas National Wildlife Refuge.
Sevilleta National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH CAROLINA

Alligator River National Wildlife Refuge.
Cedar Island National Wildlife Refuge.
Mattamuskeet National Wildlife Refuge.
Pee Dee National Wildlife Refuge.
Swanquarter National Wildlife Refuge.

NORTH DAKOTA

J. Clark Salyer National Wildlife Refuge.
Lake Alice National Wildlife Refuge.

OHIO

Ottawa National Wildlife Refuge.

OKLAHOMA

Optima National Wildlife Refuge.
Sequoyah National Wildlife Refuge.
Tishomingo National Wildlife Refuge.
Washita National Wildlife Refuge.

OREGON

Ankeny National Wildlife Refuge.
Baskett Slough National Wildlife Refuge.
Cold Springs National Wildlife Refuge.
Columbian White-tailed Deer National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Klamath Forest National Wildlife Refuge.
Lewis and Clark National Wildlife Refuge.
Lower Klamath National Wildlife Refuge.
Malheur National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
Umatilla National Wildlife Refuge.
Upper Klamath National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.
Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Sand Lake National Wildlife Refuge.

TENNESSEE

Cross Creeks National Wildlife Refuge.
Hatchie National Wildlife Refuge.
Lower Hatchie National Wildlife Refuge.
Tennessee National Wildlife Refuge.

TEXAS

Anahuac National Wildlife Refuge
Aransas National Wildlife Refuge.
Big Boggy National Wildlife Refuge.
Brazoria National Wildlife Refuge.
Hagerman National Wildlife Refuge.
Laguna Atascosa National Wildlife Refuge.
San Bernard National Wildlife Refuge.
Sea Rim National Wildlife Refuge.

UTAH

Bear River Migratory Bird Refuge.
Fish Springs National Wildlife Refuge.
Ouray National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

VIRGINIA

Chincoteague National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Columbian White-tailed Deer National Wildlife Refuge.
Conboy Lake National Wildlife Refuge.
McNary National Wildlife Refuge.
Ridgefield National Wildlife Refuge.
Toppenish National Wildlife Refuge.
Umatilla National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Trempealeau National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

Pathfinder National Wildlife Refuge.
Seedskadee National Wildlife Refuge.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 32.11, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 32.12 Refuge-specific regulations; migratory game birds.

(a) *Alabama—Wheeler National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(b) *Alabama and Georgia—Eufaula National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting of ducks and coots is permitted only on Mondays, Wednesdays and Saturdays until noon.

(3) Hunting is not permitted outside the area assigned to the hunting parties.

(4) Duck and coot hunters must use and be in possession only of shells containing steel shot.

(5) Hunters are required to check in and out of the refuge.

(6) Checking bagged game is required.

(c) *Arizona—Buenos Aires National Wildlife Refuge.* Hunting of mourning doves, white-winged doves, ducks, geese, and coots is permitted on designated areas of the refuge.

(d) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of mourning and white-winged doves, ducks, coots, gallinules and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Special Use Permits are required for all hunting guides.

(ii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farm worker.

(iii) Neither hunters nor dogs may enter closed areas to retrieve game.

(iv) Pits or permanent blinds are not permitted.

(v) The following additional restrictions apply to Zone II A:

(A) During the waterfowl season, Farm Unit 2 is closed to dove hunting until noon each day.

(B) In Farm Unit 2, waterfowl hunters must remain within 50 feet of designated stations while hunting except when actively retrieving downed birds.

(C) During the goose season, the Hart Mine Marsh Area is closed to hunting until noon.

(D) Hunters are restricted to 10 shells per day, except in the Hart Mine Marsh Area.

(2) *Havasu National Wildlife Refuge.* Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Neither hunters nor dogs may enter closed areas to retrieve game.

(ii) Pits and permanent blinds are not permitted.

(iii) The following regulations apply only to Pintail Slough (all refuge lands north of the north dike):

(A) Permits are required for waterfowl hunting.

(B) Dove hunting is permitted only during the September season.

(3) *Imperial National Wildlife Refuge.* Hunting of mourning and white-winged doves, ducks, coots, gallinules, geese and common snipe is permitted on designated areas of the refuge subject to the following condition: Pits and permanent blinds are not permitted.

(e) *Arkansas*—(1) *Felsenthal National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during the special teal season.

(iii) Hunting of ducks and coots is permitted until noon each day.

(iv) Only portable blinds are permitted.

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

(2) *Holla Bend National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Overflow National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during the special teal season.

(iii) Hunting of ducks and coots is permitted until noon each day.

(iv) Only portable blinds are permitted.

(v) Blinds, boats, and decoys must be removed from the refuge or to a designated area following each day's hunt.

(vi) Firearms must be unloaded when transported or in refuge campgrounds.

(vii) Dogs are permitted.

(4) *White River National Wildlife Refuge.* Hunting of doves, ducks, coots, snipe and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Tuesdays, Thursdays and Saturdays until noon.

(iii) Hunting is not permitted during the special teal season.

(iv) Snipe, woodcock, dove and coot may be taken only when their seasons coincide with the refuge waterfowl hunting season.

(v) Only portable blinds are permitted.

(vi) Blinds and decoys must be removed from the refuge following each day's hunt.

(f) *California*—(1) *Clear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following condition: Air-thrust and inboard water-thrust boats are not permitted.

(2) *Colusa National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(3) *Delevan National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(4) *Kern National Wildlife Refuge.* Hunting of geese, ducks, coots and gallinules is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters assigned to the spaced blind unit must travel to and from parking areas and blind sites with firearms unloaded.

(ii) Hunters assigned to the spaced blind unit must remain within 100 feet of the numbered steel post (blind site) except when pursuing cripples, placing decoys or traveling to and from the parking area.

(iii) Hunters may not possess more than 25 shells while in the field.

(iv) Hunters must park in assigned lots.

(5) *Kesterson National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(ii) Portable blinds must be removed from the refuge following each day's hunt.

(iii) The construction and use of permanent blinds are not permitted.

(6) *Lower Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled waterfowl hunting area, entry permits are required for the first 2 days of the waterfowl season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Waterfowl, coot, gallinule and snipe shooting hours end at 1:00 p.m. daily on all California portions of the refuge.

(iii) Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to or from the hunting areas.

(iv) Decoys may not be set in retrieving zones.

(v) Air-thrust and inboard water-thrust boats are not permitted.

(7) *Merced National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Firearms must be unloaded while being transported between parking areas and blind sites.

(ii) Snipe hunting is not permitted in the spaced blind unit.

(iii) Hunters assigned to the spaced blind unit are restricted to their assigned blind except for retrieving downed birds, placing decoys or traveling to and from the parking area.

(iv) Hunters must hunt from assigned blinds except when shooting to retrieve crippled birds.

(8) *Modoc National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the first weekend only.

(ii) After the first weekend of the open season, hunting is permitted only on Tuesdays, Thursdays and Saturdays.

(iii) In the designated spaced blind area, hunters must remain within 50 feet of the established blind stake for the blind assigned to them.

(9) *Sacramento National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Firearms must be unloaded while being transported between parking areas and blind sites.

(ii) Snipe hunting is not permitted in the spaced blind unit.

(iii) Hunters assigned to the spaced blind unit are restricted to their assigned blind except for retrieving downed birds, placing decoys or traveling to and from the parking area.

(iv) Hunters must hunt from assigned blinds except when shooting to retrieve crippled birds.

(10) *Salton Sea National Wildlife Refuge.* Hunting of geese, ducks, coots, and gallinules is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters using the Union Tract must use goose decoys.

(ii) Hunters must hunt from assigned blinds or stakes except when shooting to retrieve crippled birds.

(11) *San Francisco Bay National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters may retrieve birds that fall into an area that is closed to hunting, provided that all weapons are left within a legal hunting area.

(ii) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(iii) The construction and use of permanent blinds are not permitted.

(iv) Digging into levees is not permitted.

(v) Nonmotorized boats may be used on all 9 ponds for setting out and retrieving decoys or for retrieving downed waterfowl. Nonmotorized boats may also be used for hunting on Ponds 1, 2, 3, 4, 5, and 6 of the Mowry Slough Unit.

(vi) All decoys, boats and other personal property must be removed from the refuge following each day's hunt.

(12) *San Luis National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Only portable blinds and temporary blinds constructed of natural materials are permitted.

(ii) The construction and use of permanent blinds are not permitted.

(iii) Portable blinds must be removed from the refuge following each day's hunt.

(13) *Sutter National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(14) *Tule Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled waterfowl hunting area, entry permits are required for the first 2 days of the waterfowl season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Hunting of waterfowl, coot, gallinule and snipe is permited until 1:00 p.m. each day.

(iii) In designated spaced blind areas, possession of any loaded firearms more than 100 feet from the established blind stakes is not permitted. Hunters select blind sites by lottery at the beginning of each hunt day. Hunters may shoot only from within their assigned blind sites.

(iv) Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to and from the hunting areas.

(v) Decoys may not be set in retrieving zones.

(vi) Air-thrust and inboard water-thrust boats are not permitted.

(g) *Colorado*—(1) *Alamosa National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots, mergansers and common snipe is permitted on designated areas of the refuge subject to the following conditions: Common snipe and mourning dove hunting are permitted only during the waterfowl hunting season.

(2) *Browns Park National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge.

(3) *Monte Vista National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots, mergansers and common snipe is permitted on designated areas of the refuge subject to the following condition: Common snipe and mourning dove hunting are permitted only during the waterfowl hunting seasons.

(h) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting except on the South Upland Hunting Area.

(ii) Hunting of waterfowl and coots is permitted on the South Waterfowl Area, the West Waterfowl Area, and the Young Waterfowlers Area.

(iii) Only snow geese may be taken on the Snow Goose Area.

(iv) Hunting is permitted only from designated sites, except on the South Upland Hunting Area and the Snow Goose Area.

(v) The maximum number of hunters permitted per blind is as follows: West Waterfowl and Snow Goose Areas—4; South Waterfowl Area—3; Young Waterfowlers Area—2.

(vi) The possession of a loaded shotgun while outside a blind or designated site is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters may not use or possess more than 15 shells per day on the West and Young Waterfowlers Hunt Areas.

(viii) Waterfowl hunters must use and possess shells containing only steel shot.

(ix) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Only waterfowl and coots may be taken on the Waterfowl and Young Waterfowlers Hunting Areas.

(iii) Only mourning doves, common snipe, and woodcock may be taken on the North Hunting Area.

(iv) Access to the waterfowl hunt area is by boat only.

(v) Except on the North Hunting Area, hunting is permitted from designated blinds only, with a maximum of three hunters per blind.

(vi) The possession of a loaded shotgun while outside of a blind is not permitted unless actively pursuing crippled birds.

(vii) Waterfowl hunters must use and possess shells containing only steel shot.

(viii) Hunters using the Young Waterfowlers Hunting Area may not use or possess more than 25 shells per day.

(ix) Hunting is not permitted from March 1 through August 31.

(i) *Flordia*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(iii) Only temporary blinds are permitted.

(iv) Decoys must be removed from the refuge following each day's hunt.

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of ducks, moorhens, woodcock, rails, coots, and snipe only is permitted on the Levy County portion of the refuge.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunting is not permitted on the Levy County portion of the refuge during the muzzleloading gun deer hunt.

(v) Only temporary blinds are permitted.

(vi) Decoys must be removed from the refuge following each day's hunt.

(vii) Hunters must use and be in possession only of shells containing steel shot.

(3) *Loxahatchee National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted Wednesday through Sunday except the refuge is closed to hunting on Christmas Day.

(iii) Hunting is not permitted during the special teal season.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Guns must be unloaded and cased or dismantled when outside the hunt area and when the boat is enroute to or from the hunting area.

(vi) Only temporary blinds are permitted.

(vii) Decoys and other personal property must be removed from the hunting area following each day's hunt.

(4) *Merritt Island National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Wednesdays, Thursdays, Fridays and Saturdays until 1:00 p.m. Hunting is permitted until sunset on Sundays and the last day of the State waterfowl season.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Decoys, boats and other personal property must be removed from the refuge following each day's hunt.

(v) Only temporary blinds built of native vegetation are permitted.

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.* Hunting of ducks, coots and snipe is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted only on Tuesdays, Thursdays and Saturdays until noon during the State waterfowl hunting season.

(3) Hunters must use and be in possession only of shells containing steel shot.

(4) Decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(k) *Idaho*—(1) *Bear Lake National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats are not permitted.

(2) *Camas National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(3) *Deer Flat National Wildlife Refuge.* Hunting of geese, ducks, coots, common snipe and doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Only ducks and coots may be hunted on the Lake Lowell sector.

(ii) Only portable and temporary blinds constructed of natural materials are permitted.

(iii) The construction and use of permanent hunting blinds are not permitted.

(4) *Grays Lake National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following condition: Motorized boats are not permitted.

(5) *Kootenai National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Tuesdays, Thursdays, Saturdays and Sundays.

(ii) Hunters are limited to the use and/or possession of no more than 25 shells per day.

(iii) All firearms must be unloaded when in the posted retrieving zone for purposes of retrieving downed birds or traveling to or from the hunting area.

(6) *Minidoka National Wildlife Refuge.* Hunting of geese, ducks, and coots is permitted on designated areas of the refuge.

(l) *Illinois*—(1) *Chautauqua National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only in the area outside the main dike in the Liverpool Lake section and north of the entrance to the north ditch known as Goofy Ridge Ditch.

(ii) The retrieval zone is limited to the river side of the main dike.

(iii) Only temporary structures or blinds constructed of native materials are permitted.

(2) *Crab Orchard National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditons:

(i) Waterfowl hunting is permitted on the controlled areas of Grassy Point, Carterville Public, and Greenbriar Road areas from sunrise to 12:00 noon each day during the goose season. Goose hunting on these areas, including lake shorelines, is permitted only from existing refuge established blinds.

(ii) During the goose season, on Grassy, Orchard, Sawmill and Turkey Islands, hunters may hunt only from blinds provided by the refuge. Only hunters occupying these blinds are allowed on the islands during the goose hunting season.

(iii) Waterfowl hunters must use and be in possession of only shells containing steel shot.

(iv) Only portable or temporary blinds may be used. Blinds and pits may not be located beyond the shoreline of refuge waters.

(v) Blinds must be removed or dismantled at the end of each day's hunt.

(m) *Iowa—De Soto National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted until noon each day from November 1 through the end of the waterfowl hunting season.

(3) Hunters must use and be in possession only of shells containing steel shot.

(4) Hunters may not use or possess more than 25 shells per day.

(n) *Iowa, Illinois, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is only permitted on the Big Timber Division, the Bear Creek Unit of the Gardner Division, and Turkey and Otter Islands.

(2) Only temporary wood or brush blinds are permitted.

(3) Blinds cannot be locked or otherwise sealed against public entry.

(4) Blinds are open to the public on a first-come, first-served basis if not occupied 30 minutes after the start of the legal shooting hours.

(o) *Iowa, Illinois, Minnesota, and Wisconsin—Upper Mississippi River Wild Life and Fish Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required for Potter's Marsh in Pool 13 except during the early teal season.

(2) Waterfowl hunters must use and be in possession only of shells containing steel shot on those portions of the refuge in the States of Iowa, Minnesota and Wisconsin.

(p) *Kansas*—(1) *Kirwin National Wildlife Refuge.* Hunting of mourning doves, ducks, geese, coots and common snipe is permitted on designated areas of the refuge.

(2) *Quivira National Wildlife Refuge.* Hunting of mourning dove, geese, ducks, coots, rails, common snipe and woodcock is permitted on designated areas of the refuge subject to the following condition: Waterfowl hunters must use and be in possession of only shells containing steel shot.

(q) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of ducks, geese, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only temporary blinds are permitted.

(2) *D'Arbonne National Wildlife Refuge.* Hunting of ducks, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted until noon each day.

(ii) Boats, decoys, and non-native blind materials must be removed from the refuge following each day's hunt.

(3) *Delta National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of ducks, geese, and coots is permitted only on Wednesdays, Thursdays, Saturdays, and Sundays until noon during the State duck season.

(ii) Hunting is not permitted during that portion of the State goose season that extends beyond the State duck season.

(iii) Blinds and decoys must be removed from the refuge following each day's hunt.

(iv) Snipe, rails, and gallinules may only be taken during the State duck season.

(4) *Lacassine National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted Wednesday through Sunday except that hunting is permitted daily during teal season.

(ii) Hunting ends at noon each day.

(iii) Hunters may not enter the hunt area before 4 a.m.

(iv) Hunting is not permitted within 50 yards of a canal or waterway.

(v) Hunters must use and be in the possession only of shells containing steel shot.

(vi) Blinds must be spaced at least 150 yards apart.

(vii) Decoys and blinds must be removed from the refuge following each day's hunt.

(viii) Hunting is not permitted during that portion of the State goose season that extends beyond the State duck season.

(ix) Access into the marsh and ponds is by foot or boat only. Motorized boats may be used only in canals and bayous.

(5) *Sabine National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays and Sundays except that hunting is permitted daily during the entire western zone teal season.

(ii) Hunting is permitted until noon each day.

(iii) Hunting is not permitted during the goose-only season and on Christmas Day.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Hunters are required to check in and out of the refuge.

(vi) Checking bagged game is required.

(vii) Only portable blinds and blinds constructed of native vegetation are permitted.

(viii) Decoys and portable blinds must be removed from the refuge following each day's hunt.

(6) *Tensas River National Wildlife Refuge.* Hunting of ducks, coots, woodcock and snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of ducks and coots is permitted only on Tuesdays, Thursdays, Saturdays and Sundays until noon each day.

(iii) Hunting is not permitted during the special teal season and the refuge deer hunts.

(7) *Upper Ouachita National Wildlife Refuge.* Hunting of ducks, coots and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of ducks and coots is permitted until noon each day.

(ii) Boats, decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(iii) Woodcock hunting is permitted during the State season.

(r) *Maine—Rachel Carson National Wildlife Refuge.* Hunting of waterfowl and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting of sea ducks is permitted when their open season coincides with the regular waterfowl season.

(3) Hunters may not fire or possess more than 25 shells per day.

(s) *Massachusetts*—(1) *Oxbow National Wildlife Refuge.* Hunting of woodcock and snipe is permitted on designated areas of the refuge subject to the following condition: Vehicles are restricted to the designated parking area that is accessible from the Still River Depot Road. Entry by routes other than Still River Depot Road is not permitted.

(2) *Parker River National Wildlife Refuge.* Hunting of waterfowl and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and possess shells containing only steel shot.

(iii) Hunters may not use or possess more than 25 shells per day.

(iv) Hunters using Area B must set out a minimum of six waterfowl decoys and hunt within 50 yards of these decoys.

(t) *Michigan*—(1) *Seney National Wildlife Refuge.* Hunting of woodcock and Wilson's snipe is permitted on designated ares of the refuge.

(2) *Shiawassee National Wildlife Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(u) *Minnesota*—(1) *Minnnesota Valley National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only participants in the refuge's Young Wild Fowlers program are permitted to hunt.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Sherburne National Wildlife Refuge.* Hunting of ducks, coots, rails, woodcock and Wilson's snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Field possession of migratory game birds is not permitted on refuge areas closed to migratory game bird hunting.

(ii) Only nonmotorized boats are permitted, and they must be launched at designated access sites.

(iii) Boats, decoys and blinds must be removed from the refuge following each day's hunt except for blinds made entirely of marsh vegetation.

(iv) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(3) *Tamarac National Wildlife Refuge.* Hunting of geese, ducks, coots, rails, woodcock and Wilson's snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is in accordance with White Earth Reservation regulations on those portions of the Reservation that are a part of the refuge.

(ii) Blinds must be removed from the refuge following each day's hunt except for blinds made entirely of marsh vegetation.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(v) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of ducks, geese, coots, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Duck hunting is not permitted during the special teal season.

(ii) Hunting is permitted until noon each day.

(iii) Only temporary blinds are permitted.

(2) *Hillside National Wildlife Refuge.* Hunting of mourning doves, ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(v) Dove hunting is permitted during the first two Saturdays of the State season, and the remainder of the first segment and the entire second segment of the season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(5) *Noxubee National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Mondays, Wednesdays and Saturdays until noon.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters are required to check in and out of the refuge.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of ducks, coots, snipe, and woodcock is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Duck and coot hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot while duck and/or coot hunting.

(iv) Only portable and temporary blinds may be used.

(7) *Yazoo National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Doves may be taken when the dove hunting season coincides with the refuge squirrel and rabbit hunting seasons.

(w) *Missouri*—(1) *Mingo National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Swan Lake National Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(x) *Montana*—(1) *Benton Lake National Wildlife Refuge.* Hunting of ducks, geese, tundra swans, and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Only nonmotorized boats are permitted.

(ii) Waterfowl hunting is not permitted after November 30.

(2) *Black Coulee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(3) *Bowdoin National Wildlife Refuge.* Hunting of waterfowl, coots, sandhill cranes, and mourning doves is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(4) *Creedman Coulee National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower motors are not permitted.

(5) *Hewitt Lake National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower motors are not permitted.

(6) *Lake Mason National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: The use of motorized boats is not permitted.

(7) *Lake Thibadeau National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following condition: Air-thrust boats and boats with motors greater than 10 horsepower are not permitted.

(8) *Lee Metcalf National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditons:

(i) Hunters may not use or possess more than 25 shells per day.

(ii) Shooting is permitted only from or within 10 feet of designated blinds.

(9) *Medicine Lake National Wildlife Refuge.* Hunting of ducks, geese, snipe, and doves is permitted on designated areas of the refuge.

(10) *Red Rock Lakes National Wildlife Refuge.* Hunting of geese, ducks, coots and mergansers is permitted on designated areas of the refuge.

(y) *Nebraska—Valentine National Wildlife Refuge.* Hunting of mourning doves, geese, ducks and coots is permitted on designated areas of the refuge.

(z) *Nevada*—(1) *Pahranagat National Wildlife Refuge.* Hunting of doves, geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) A permit is required for all dove hunters, 14 years of age or older, for hunting from opening day through the following Monday.

(ii) Only nonmotorized boats or other motorless flotation devices are permitted on the refuge hunting area during the migratory waterfowl hunting season.

(2) *Ruby Lake National Wildlife Refuge.* Hunting of geese, ducks, coots, gallinules and common snipe is permitted on designated areas of the refuge.

(aa) *New Jersey—Edwin B. Forsythe National Wildlife Refuge.* Hunting of rails, gallinules, waterfowl, and coots is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must use and possess shells containing only steel shot according to State regulation.

(2) All hunting blind materials, boats, and decoys must be removed at

the end of each hunting day. Permanent and pit blinds are not permitted.

(3) Waterfowl hunters may not use or possess more than 25 shells per day in Hunting Areas A, B, and C in the Barnegat Division and in Hunting Unit 1 in the Brigantine Division.

(4) In Hunting Area B of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. Access is by boat only. A minimum of six decoys per site is required.

(5) In Hunting Area C of the Barnegat Division, hunting is restricted to designated sites, with each site limited to one party of hunters. A permit is required on opening days, Saturdays, and holidays.

(6) Use of Hunting Unit 3 of the Brigantine Division is restricted to certified Young Waterfowl Program trainees from the close of the first portion of the split duck season through the second Saturday of the second portion of the split duck season.

(bb) *New Mexico*—(1) *Bitter Lake National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots and lesser sandhill cranes is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunters must use and be in possession only of shells containing steel shot while hunting on the South Refuge Unit (Area C).

(ii) Permanent blinds and pit blinds are not permitted.

(iii) Neither hunters nor dogs may enter closed areas to retrieve game.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of mourning and white-winged doves and snow, blue and Ross' geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for goose hunting.

(ii) Goose hunters are required to successfully complete a U.S. Fish and Wildlife Service migratory bird identification and hunter training program prior to the hunt.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(3) *Las Vegas National Wildlife Refuge.* Hunting of mourning doves, ducks and Canada geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(4) *Sevilleta National Wildlife Refuge.* Hunting of mourning and white-winged doves, geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters or dogs may not enter closed areas to retrieve birds.

(ii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iii) Permanent blinds and pit blinds are not permitted.

(cc) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for waterfowl hunting.

(ii) Completion of the State waterfowl identification course is required.

(iii) Hunting is not permitted from March 1 through September 30.

(iv) Waterfowl hunters must use and possess shells containing only steel shot.

(v) Waterfowl hunters may not use or possess more than 15 shells per day.

(vi) Waterfowl hunters must provide and use a minimum of six decoys per hunter.

(vii) Waterfowl hunting is permitted from designated stands only, with a maximum of three hunters per stand.

(viii) Hunting must occur within 50 feet of a stand marker, unless actively pursuing crippled birds.

(2) *Montezuma National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Completion of the State waterfowl identification course is required.

(iii) Hunters must use and possess shells containing only steel shot.

(iv) Hunters may not use or possess more than 25 shells per day.

(v) Hunting parties are limited to a maximum of two hunters per group.

(vi) Motorless boats are required.

(dd) *North Carolina*—(1) *Cedar Island National Wildlife Refuge.* Hunting of ducks, coots, and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters must use and be in possession only of shells containing steel shot.

(ii) Only portable blinds are permitted.

(iii) Blinds must be removed from the refuge following each day's hunt.

(2) *Mattamuskeet National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is only permitted during the eight two-day hunts that occur during the last State waterfowl season and during the youth hunt that is held on the Friday and Saturday following Thanksgiving.

(iii) Shooting hours for the first day of the youth hunt begin at 1:00 p.m. Shooting hours for the other hunts end at noon each day.

(iv) Hunters are required to check in and out of the refuge.

(v) Hunters must use and be in the possession only of shells containing steel shot.

(vi) A recreation user fee is required prior to hunting.

(3) *Pee Dee National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from opening day of the State season through the last Saturday in September.

(4) *Swanquarter National Wildlife Refuge.* Hunting of ducks, coot, and geese is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters must use and be in possession only of shells containing steel shot.

(ii) Only portable blinds are permitted.

(iii) Blinds must be removed from the refuge following each day's hunt.

(ee) *North Dakota*—(1) *J. Clark Salyer National Wildlife Refuge.* Hunting of ducks, geese, mergansers and coots is permitted in designated areas of the refuge.

(2) *Lake Alice National Wildlife Refuge.* Hunting of mourning doves, ducks, geese, mergansers and coots is permitted on designated areas of the refuge subject to the following condition: Possession of firearms in retrieving zones is not permitted.

(ff) *Ohio—Ottawa National Wildlife Refuge.* Hunting of geese is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunters must use and be in possession only of shells containing steel shot.

(gg) *Oklahoma*—(1) *Optima National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge.

(2) *Sequoyah National Wildlife Refuge.* Hunting of doves and waterfowl is permitted on designated areas of the refuge subject to the following condition: Waterfowl hunters must use and be in possession only of shells containing steel shot.

(3) *Tishomingo National Wildlife Refuge.* Hunting of mourning doves and waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) The Tishomingo Wildlife Management Unit is open as posted by signs and/or indicated on refuge leaflets, permits and maps.

(ii) In Zone 1, only duck and coot hunting is permitted.

(iii) Duck or coot hunters may not use or possess more than 25 shells per day.

(iv) Goose hunting is only permitted in Zone 2 and only from the goose blinds provided.

(v) Goose hunters may not use or possess more than 6 shells per day.

(vi) Hunters are required to check in and out of the refuge.

(4) *Washita National Wildlife Refuge.* Hunting of geese and sandhill cranes is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(hh) *Oregon*—(1) *Ankeny National Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(iii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iv) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(v) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(2) *Baskett Slough National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iii) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(iv) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(3) *Cold Springs National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(ii) Only shoreline hunting is permitted.

(iii) Waterfowl hunters are required to space themselves a minimum of 200 yards apart.

(iv) The use of boats is not permitted.

(4) *Deer Flat National Wildlife Refuge.* Hunting of doves, geese, ducks, coots and common snipe is permitted on the Snake River sector subject to the following conditions:

(i) The construction and use of permanent hunting blinds are not permitted.

(ii) Hunters may use portable blinds and temporary blinds constructed of natural materials.

(5) *Klamath Forest National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: The use of air-thrust and inboard water-thrust boats is not permitted.

(6) *Lewis and Clark National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(7) *Lower Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to or from the hunting areas.

(ii) Decoys may not be set in retrieving zones.

(iii) The use of air-thrust and inboard water-thrust boats is not permitted.

(8) *Malheur National Wildlife Refuge.* Hunting of doves, geese, ducks, coots, common snipe and pigeons is permitted on designated areas of the refuge subject to the following condition: Motorized boats are not permitted.

(9) *McKay Creek National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the opening weekend of the season.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(iii) Waterfowl hunters are required to space themselves a minimum of 200 yards apart.

(iv) The use of boats is not permitted.

(10) *Umatilla National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on des-

ignated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting on the McCormack Unit.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays, except on Christmas Day, on the McCormack Unit.

(iii) Waterfowl hunting parties in the Boardman Unit are required to space themselves a minimum of 200 yards apart.

(iv) Hunting on the McCormack Unit is permitted only from designated blinds or within 50 feet of numbered posts.

(v) Hunters may not possess or use more than 25 shells per day on the McCormack Unit.

(11) *Upper Klamath National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following condition: The use of air-thrust and inboard water-thrust boats is not permitted.

(12) *William L. Finley National Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance hunting reservation/permit is required for waterfowl, coot and snipe hunting.

(ii) Dove and pigeon hunters must check in and out of the refuge by use of self-service permits.

(iii) Waterfowl, coot and snipe hunting is permitted only on Wednesdays, Saturdays and Sundays until noon.

(iv) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(v) Waterfowl, coot and snipe hunters may not use or possess more than 25 shells per day.

(ii) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted on the refuge from September 1 through the end of February.

(2) Waterfowl hunters must use and possess shells containing only steel shot.

(3) Only motorless boats are permitted for waterfowl hunting. Boats and decoys must be removed from the refuge at the end of each day's hunt.

(jj) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of rails is permitted on designated areas of the refuge.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of mourning doves and woodcock is permitted in designated areas of the refuge subject to the following conditions:

(i) Dove and woodcock hunting is permitted only when the seasons for these species coincide with the State quail season.

(ii) Hunting is permitted Monday through Saturday only.

(3) *Santee National Wildlife Refuge.* Hunting of mourning doves, ducks, and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Waterfowl hunting is permitted only in October during the State season.

(iii) Waterfowl hunting is permitted until noon each day.

(iv) The refuge dove season opens with the state season and ends September 30.

(v) Permanent blinds are not permitted.

(vi) Decoys and non-native blind materials must be removed from the refuge following each day's hunt.

(kk) *South Dakota—Sand Lake National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge.

(ll) *Tennessee*—(1) *Cross Creeks National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted only on Saturdays and Sundays during the regular duck season.

(iii) Hunters are required to check in and out of the refuge.

(iv) Hunters must use and be in possession of only shells containing steel shot.

(2) *Hatchie National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas

of the refuge, subject to the following conditions:

(i) Hunting is permitted only on Tuesdays, Thursdays, and Saturdays until noon.

(ii) Only portable blinds and blinds made of native vegetation may be used.

(iii) Portable blinds and decoys must be removed from the refuge following each day's hunt.

(iv) Hunters must use and be in possession of only shells containing steel shot.

(3) *Lower Hatchie National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted until noon each day.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(iii) Only portable blinds and blinds made of native vegetation are permitted.

(iv) Portable blinds and decoys must be removed from the refuge following each day's hunt.

(mm) *Texas*—(1) *Anahuac National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required to hunt on certain portions of the hunting area on weekend days.

(ii) The refuge unit located north of Onion Bayou, formerly known as the Barrow Ranch, is open to hunting only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR § 25.31.

(iii) Hunting is permitted until noon.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Pits and permanent blinds are not permitted.

(vi) The refuge unit formerly known as the Pace Tract is open to hunting every day of the early teal season and regular waterfowl season.

(2) *Big Boggy National Wildlife Refuge.* Hunting geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(ii) Pits and permanent blinds are not permitted.

(3) *Brazoria National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Waterfowl hunters must use and be in possession only of shells containing steel shot.

(ii) Pits and permanent blinds are not permitted.

(4) *Hagerman National Wildlife Refuge.* Hunting of mourning doves is permitted on designated areas of the refuge subject to the following condition: Hunters are required to check in and out of the refuge.

(5) *McFaddin National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required to hunt on certain portions of the hunting area.

(ii) Hunting is permitted only on designated days of the week. Notice of actual hunting days is issued as provided in 50 CFR § 25.31.

(iii) Hunting is permitted until noon each day.

(iv) Hunters must use and be in possession only of shells containing steel shot.

(v) Pits and permanent blinds are not permitted.

(vi) Airboats must be direct propeller drive with propeller 48 inches or less in length. Engines may not exceed two cylinders and 484 cc displacement.

(6) *San Bernard National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting in the Special Waterfowl Hunting Area (SPWH).

(ii) The refuge is closed to hunting on Thanksgiving and Christmas Days.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Pits and permanent blinds are not permitted.

(7) *Texas Point National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Mondays, Wednesdays and Saturdays. Hunting is not permitted on Christmas Day.

(ii) Hunting is permitted until noon each day.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Pits and permanent blinds are not permitted.

(v) Airboats must be direct propeller drive with propeller 48 inches or less in length. Engines may not exceed two cylinders and 484 cc displacement.

(nn) *Utah*—(1) *Bear River Migratory Bird Refuge.* Hunting of ducks, geese, coots and tundra swans is permitted on desingated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Fish Springs National Wildlife Refuge.* Hunting of ducks, coots and mergansers is permitted on designated areas of the refuge.

(3) *Ouray National Wildlife Refuge.* Hunting of ducks, coots and mergansers is permitted on designated areas of the refuge.

(oo) *Vermont—Missisquoi National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required to hunt in the Patrick Marsh-Charcoal Creek Controlled Hunting Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.

(2) Hunters may not use or possess more than 25 shells per day on the Patrick Marsh-Charcoal Creek Controlled Hunting Area, the Junior Waterfowl Hunting Area, and the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area.

(3) Boats are required for access to the permit areas.

(4) Hunters within the Patrick Marsh Controlled Hunting Area and the Junior Waterfowl Area must provide and use a minimum of six decoys and hunt within 50 feet of these decoys.

(5) Hunters within the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area and the Maquam Swamp Hunting Area must hunt with one retriever per hunting party of up to two hunters per party.

(6) No permanent blind construction or blind staking is allowed in the Delta Lakeshore Hunting Area, the Saxe's Pothole-Creek and Shad Island Pothole Hunting Area, and the Maquam Swamp Hunting Area.

(7) Hunters must use and posses shells containing only steel shot.

(pp) *Virginia—Chincoteague National Wildlife Refuge.* Hunting of waterfowl is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required on the non-guided public hunting area.

(2) Compartments 1 to 4 are reserved for guided hunting only, with refuge-designated commercial guides.

(3) Public hunting is permitted only within 50 feet of a designated blind site, unless actively pursuing crippled birds.

(4) Permanent and pit blinds are not permitted, except in Compartments 1 to 4.

(5) Blind sites are limited to one party of hunters, with a maximum of four hunters per party.

(qq) *Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting in Marsh Unit I and Farm 226-227 except that permits are not required for Marsh Unit I after 12:00 p.m.

(ii) In Marsh Unit I and Farm Unit 226-227, hunting is permitted only on Wednesdays, Saturdays and Sundays.

(2) *Columbian White-Tailed Deer National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge.

(3) *Conboy Lake National Wildlife Refuge.* Hunting of doves, pigeons, geese, ducks, coots, common snipe is permitted on designated areas of the refuge.

(4) *McNary National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) Advance reservations are required for hunting refuge farm circles in the McNary Division.

(ii) In the McNary Division, hunting is permitted only on Wednesdays, Saturdays, Sundays and state holidays.

(iii) Only the five most upstream islands on the Hanford Islands Unit are open to hunting.

(5) *Ridgefield National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) An advance permit is required to hunt before 10 a.m.

(ii) Hunting is permitted every other day as prescribed by the refuge hunt schedule.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(iv) Hunters may not use or possess more than 25 shells per day.

(v) A recreational user fee is required prior to hunting.

(6) *Toppenish National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas subject to the following condition: Hunting of geese, ducks, coots and common snipe is permitted only within 50 feet of the numbered posts assigned to each hunter.

(7) *Umatilla National Wildlife Refuge.* Hunting of geese, ducks, coots and common snipe is permitted on designated areas of the refuge subject to the following conditions:

(i) In the Patterson Slough Unit, hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays.

(ii) Waterfowl hunters must space themselves a minimum of 200 yards apart.

(iii) Hunters in the Ridge Unit must hunt within 50 feet of numbered posts.

(iv) Hunters may not use or possess more than 25 shells per day in the Patterson Slough Unit.

(8) *Willapa National Wildlife Refuge.* Hunting of geese, ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunting in the Riekkola Unit is permitted only on Wednesdays and Saturdays.

(iii) A recreation user fee is required prior to entrance into the Riekkola Unit hunting area.

(iv) Hunters may not use or possess more than 10 shells per day on the Riekkola Unit.

(rr) *Wisconsin*—(1) *Horicon National Wildlife Refuge.* Hunting of ducks and coots is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only participants in the refuge's Young Wild Fowlers program are permitted to hunt.

(iii) Hunters must use and be in possession only of shells containing steel shot.

(2) *Necedah National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Waterfowl hunters must use and be in possession of only shells containing steel shot.

(3) *Trempealeau National Wildlife Refuge.* Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Waterfowl hunters must use and be in possession of only shells containing steel shot.

(ss) *Wyoming*—(1) *Pathfinder National Wildlife Refuge.* Hunting of geese, ducks, mergansers and coots is permitted on designated areas of the refuge.

(2) *Seedskadee National Wildlife Refuge.* Hunting of mourning doves, geese, ducks, coots and mergansers is permitted on designated areas of the refuge.

[49 FR 36740, Sept. 19, 1984 as amended at 49 FR 37099, Sept. 21, 1984; 49 FR 38642, Oct. 1, 1984; 49 FR 43551, Oct. 30, 1984; 49 FR 50049, Dec. 26, 1984; 50 FR 34487, Aug. 26, 1985; 50 FR 35818, Sept. 4, 1985]

EDITORIAL NOTE: Amendments to § 32.12 published at 50 FR 35818, Sept. 4, 1985, and effective October 4, 1985, have been incorporated into this volume.

Subpart C—Resident Game Hunting

§ 32.21 List of open areas; upland game.

The hunting of upland game is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.22.

ALABAMA

Blowing Wind Cave National Wildlife Refuge.
Choctaw National Wildlife Refuge.
Eufaula National Wildlife Refuge.
Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Cape Newenham National Wildlife Refuge.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Buenos Aires National Wildlife Refuge.
Cibola National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.
Kofa National Wildlife Refuge.

ARKANSAS

Big Lake National Wildlife Refuge.
Felsenthal National Wildlife Refuge.
Holla Bend National Wildlife Refuge.
Overflow National Wildlife Refuge.
Wapanocca National Wildlife Refuge.
White River National Wildlife Refuge.

CALIFORNIA

Cibola National Wildlife Refuge.
Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.
Kern National Wildlife Refuge.
Lower Klamath National Wildlife Refuge.
Merced National Wildlife Refuge.
Sacramento National Wildlife Refuge.
San Luis National Wildlife Refuge.
Sutter National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Alamosa National Wildlife Refuge.
Arapaho National Wildlife Refuge.
Browns Park National Wildlife Refuge.
Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.
Prime Hook National Wildlife Refuge.

FLORIDA

Chassahowitzka National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
St. Marks National Wildlife Refuge.
St. Vincent National Wildlife Refuge.

GEORGIA

Blackbeard Island National Wildlife Refuge.
Eufaula National Wildlife Refuge.
Piedmont National Wildlife Refuge.
Savannah National Wildlife Refuge.

IDAHO

Bear Lake National Wildlife Refuge.
Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

INDIANA

Muscatatuck National Wildlife Refuge.

IOWA

Mark Twain National Wildlife Refuge.
Union Slough National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.
Quivira National Wildlife Refuge.

KENTUCKY

Reelfoot National Wildlife Refuge.

LOUISIANA

Bogue Chitto National Wildlife Refuge.
Catahoula National Wildlife Refuge.
D'Arbonne National Wildlife Refuge.
Delta National Wildlife Refuge.
Tensas River National Wildlife Refuge.

Upper Ouachita National Wildlife Refuge.

MAINE

Rachel Carson National Wildlife Refuge.

MASSACHUSETTS

Oxbow National Wildlife Refuge.

MICHIGAN

Harbor Island National Wildlife Refuge.
Seney National Wildlife Refuge.

MINNESOTA

Big Stone National Wildlife Refuge.
Minnesota Valley National Wildlife Refuge.
Rice Lake National Wildlife Refuge.
Sherburne National Wildlife Refuge.
Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Bogue Chitto National Wildlife Refuge.
Hillside National Wildlife Refuge.
Mathews Brake National Wildlife Refuge.
Morgan Brake National Wildlife Refuge.
Noxubee National Wildlife Refuge.
Panther Swamp National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Clarence Cannon National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Mingo National Wildlife Refuge.

MONTANA

Benton Lake National Wildlife Refuge.
Black Coulee National Wildlife Refuge.
Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Refuge.
Creedman Coulee National Wildlife Refuge.
Hailstone National Wildlife Refuge.
Halfbreed Lake National Wildlife Refuge.
Hewitt Lake National Wildlife Refuge.
Lake Mason National Wildlife Refuge.
Lake Thibadeau National Wildlife Refuge.
Lamesteer National Wildlife Refuge.
Lee Metcalf National Wildlife Refuge.
Medicine Lake National Wildlife Refuge.
UL Bend National Wildlife Refuge.
War Horse National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Desert National Wildlife Range.
Fallon National Wildlife Refuge.
Pahranagat National Wildlife Refuge.
Sheldon National Wildlife Refuge.
Stillwater Wildlife Management Area.

NEW JERSEY

Supawna Meadows National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque del Apache National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH CAROLINA

Alligator River National Wildlife Refuge.
Pea Island National Wildlife Refuge.
Pee Dee National Wildlife Refuge.

NORTH DAKOTA

Arrowwood National Wildlife Refuge.
J. Clark Salyer National Wildlife Refuge.
Lake Alice National Wildlife Refuge.
Lostwood National Wildlife Refuge.
Tewaukon National Wildlife Refuge.
Upper Souris National Wildlife Refuge.

OKLAHOMA

Optima National Wildlife Refuge.
Sequoyah National Wildlife Refuge.
Tishomingo National Wildlife Refuge.
Washita National Wildlife Refuge.

OREGON

Ankeny National Wildlife Refuge.
Baskett Slough National Wildlife Refuge.
Charles Sheldon Antelope Range.
Cold Springs National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Lower Klamath National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
Malheur National Wildlife Refuge.
Umatilla National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.
Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Pocasse National Wildlife Refuge.
Sand Lake National Wildlife Refuge.

TENNESSEE

Cross Creeks National Wildlife Refuge.
Hatchie National Wildlife Refuge.
Lake Isom National Wildlife Refuge.
Lower Hatchie National Wildlife Refuge.
Reelfoot National Wildlife Refuge.
Tennessee National Wildlife Refuge.

TEXAS

Aransas National Wildlife Refuge.
Buffalo Lake National Wildlife Refuge.
Hagerman National Wildlife Refuge.
Laguna Atascosa National Wildlife Refuge.

UTAH

Bear River Migratory Bird Refuge.
Ouray National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Conboy Lake National Wildlife Refuge.
McNary National Wildlife Refuge.
Ridgefield National Wildlife Refuge.
Toppenish National Wildlife Refuge.
Umatilla National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Trempealeau National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

Pathfinder National Wildlife Refuge.
Seedskadee National Wildlife Refuge.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 32.21, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 32.22 Refuge-specific regulations; upland game.

(a) *Alabama*—(1) *Blowing Wind Cave National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: The refuge is cooperatively managed as part of the Sauty Creek Wildlife Management Area and State regulations apply entirely to this area.

(2) *Choctaw National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted during the State season only through the Saturday preceding Christmas Day.

(iii) Hunting of raccoon and opossum is permitted only during February.

(3) *Eufaula National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted from the first day following the close of the State waterfowl season through the end of the respective seasons.

(4) *Wheeler National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following special conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted during the first two weeks of the State season only.

(iii) Hunting of raccoon and opossum is permitted during the last 28 days of the State season only.

(iv) Hunting of rabbits is permitted during the last two weeks of the State season only.

(b) *Arizona*—(1) *Buenos Aires National Wildlife Refuge.* Hunting of quail (except masked bobwhite quail), cottontail rabbit, jackrabbit, coyote, fox, and bobcat is permitted on designated areas of the refuge.

(2) *Kofa National Wildlife Refuge.* Hunting of quail, cottontail rabbit, coyote, fox and bobcat is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of cottontail rabbit, coyote, fox and bobcat is permitted from the opening day of the State quail season through February 28 except as provided in item (2).

(ii) Hunting of coyote, fox and bobcat is not permitted during the deer season except that deer hunters with valid Unit 45A, 45B and 45C deer permits may take these predators until a deer is taken.

(iii) Hunting is not permitted in the area known as Crystal Hill Campground.

(c) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunting of quail and rabbit is not permitted in Farm Unit 2 before noon.

(ii) Hunting of cottontail rabbit is permitted from September 1 through the last day of the State quail season.

(iii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farmworker.

(2) *Havasu National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of quail is not permitted on Pintail Slough which includes all refuge lands north of the north dike and west of Highway 95.

(ii) Hunting of cottontail rabbit in Pintail Slough is permitted only during September.

(iii) Only shotguns and bows and arrows are permitted.

(3) *Imperial National Wildlife Refuge.* Hunting of quail and cottontail rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(d) *Arkansas*—(1) *Big Lake National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, beaver and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and beaver is permitted from the opening day of the State fall squirrel season through October 31. Rabbit may also be taken when the State rabbit season coincides with the dates above.

(2) *Felsenthal National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon, opossum and nutria is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through Jaunary 31, except that it is not permitted during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last five days of the State season.

(iv) Beaver and nutria may be taken during the daylight hours of any refuge hunt.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

(3) *Holla Bend National Wildlife Refuge.* Hunting of raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters are required to check in and out of the refuge.

(4) *Overflow National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon, opossum and nutria is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of quail, squirrel, and rabbit is permitted only during the State seasons through January 31, except that it is not permitted during the refuge deer gun and muzzleloader hunts.

(iii) Hunting of raccoon and opossum is permitted only during the first five days and last five days of the State season.

(iv) Beaver and nutria may be taken during the daylight hours of any refuge hunt.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Squirrel and rabbit hunting with dogs is permitted beginning January 1.

(5) *Wapanocca National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the raccoon hunt.

(ii) Hunting of squirrel, rabbit and beaver is permitted from October 1 through November 15.

(iii) Hunting of raccoon and opossum is permitted from October 15 through October 31.

(6) *White River National Wildlife Refuge.* Hunting of squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted from the first Saturday in October through October 31. Squirrel and rabbit may also be taken when their respective State seasons coincide with refuge deer archery and waterfowl hunts, but they must be taken with weapons legal for those hunts.

(iii) Hunting of raccoon and opossum is permitted for six days starting on the first Monday in December.

(iv) Beaver may be taken during any refuge hunt with weapons legal for those hunts.

(e) *California*—(1) *Colusa National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(2) *Delevan National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(3) *Kern National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Pheasant hunting is not permitted in the spaced blind unit.

(4) *Lower Klamath National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 hunting the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(5) *Merced National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(6) *Sacramento National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: A special one-day only pheasant hunt is permitted in the spaced blind unit on the first Monday after the opening of the State pheasant hunting season.

(7) *San Luis National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(8) *Sutter National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(9) *Tule Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) In the controlled pheasant hunting area, entry permits are required throughout the pheasant season for all hunters 16 years of age or older. Hunters under the age of 16 hunting in the controlled area must be accompanied by an adult with a permit. Advance reservations are required for the first 2 days of the hunt.

(ii) Possession of firearms in posted retrieving zones is not permitted except that unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(f) *Colorado*—(1) *Alamosa National Wildlife Refuge.* Hunting of pheasant, cottontail rabbit, black-tailed and white-tailed jackrabbit is permitted on designated areas of the refuge subject to the following conditions: Hunting is permitted only when the respective State season coincides with the refuge waterfowl hunting season.

(2) *Arapaho National Wildlife Refuge.* Hunting of sage grouse and sharptailed grouse is permitted on designated areas of the refuge.

(3) *Browns Park National Wildlife Refuge.* Hunting of cottontail rabbit is permitted on designated areas of the refuge.

(4) *Monte Vista National Wildlife Refuge.* Hunting of pheasant, cottontail rabbit, black-tailed and white-tailed jackrabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only when the respective State season coincides with the refuge waterfowl hunting season.

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the South Upland Hunting Area.

(ii) Hunting is permitted from ½ hour before sunrise to ½ hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(2) *Prime Hook National Wildlife Refuge.* Hunting of rabbit, squirrel, quail, and pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on the North Hunting Area.

(ii) Hunting is permitted from ½ hour before sunrise to ½ hour after sunset.

(iii) Hunting is not permitted from March 1 through August 31.

(h) *Florida*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of quail, squirrel, rabbit and armadillo is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted during the State deer archery, muzzleloading and general gun seasons.

(2) *Lower Suwannee National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of squirrel, quail, rabbit, and armadillo only is permitted on the Levy County portion of the refuge from the day after the State general deer gun season ends through the last day of the State squirrel season.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Dogs are permitted for quail hunting only.

(3) *St. Marks National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, and armadillo is permitted in designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted beginning the third Friday in December through the last Sunday in January except on Christmas and New Year's Day.

(iii) A portion of the refuge is cooperatively administered as part of the Aucilla Wildlife Management Area. State regulations apply entirely to this area.

(i) *Georgia*—(1) *Piedmont National Wildlife Refuge.* Hunting of quail, squirrel and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is not permitted during refuge deer hunts.

(2) *Savannah National Wildlife Refuge.* Hunting of squirrels and rabbits is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

(j) *Idaho*—(1) *Bear Lake National Wildlife Refuge.* Hunting of partridge, grouse and cottontail rabbits, including pygmy rabbits, is permitted on designated areas of the refuge.

(2) *Camas National Wildlife Refuge.* Hunting of pheasant and grouse is permitted on designated areas of the refuge.

(3) *Deer Flat National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of pheasant, quail and partridge is permitted on the Lake Lowell sector only during the waterfowl hunting season.

(ii) Shooting hours on the Lake Lowell sector are the same as those for waterfowl hunting.

(iii) Hunting is not permitted on the Snake River sector from February 1 through May 31.

(4) *Kootenai National Wildlife Refuge.* Hunting of ruffed, spruce and blue grouse is permitted subject to the following condition: Hunting is permitted only on that portion of the refuge west of the West Side Road.

(5) *Minidoka National Wildlife Refuge.* Hunting of pheasant, partridge and cottontail rabbits, including pygmy rabbit, is permitted on designated areas of the refuge subject to

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the following condition: Hunting is permitted only during the waterfowl season.

(k) *Illinois—Crab Orchard National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Hunting is not permitted from sunrise to noon on the refuge controlled goose hunting areas during the goose hunting season.

(l) *Illinois, Iowa and Missouri—Mark Twain National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is permitted on the Big Timber and Gardner Divisions, and Turkey and Otter Islands.

(2) Hunting is permitted on the Bear Creek Unit of the Gardner Division during Illinois seasons. On the remainder of the Gardner Division, only squirrel hunting is permitted from the opening of the State season through September 30.

(3) Dogs may not be used to hunt, pursue or retrieve squirrels.

(m) *Illinois, Iowa, Minnesota and Wisconsin—Upper Mississippi River Wild Life and Fish Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is not permitted between March 1 and the opening of the State fall hunting seasons except that hunting of wild turkey is permitted during the State spring turkey season.

(2) Hunting is not permitted on the Goose Island Closed Area in Pool 8.

(3) Hunting is permitted on other areas that are closed during the waterfowl hunting season and are designated by signs as "Area Closed" beginning the day after the close of the applicable State duck hunting season.

(n) *Indiana—Muscatatuck National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only from sunrise to sunset.

(o) *Kansas*—(1) *Flint Hills National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following condition: Dogs may not be used for hunting furbearing animals or nongame animals.

(2) *Kirwin National Wildlife Refuge.* Hunting of pheasant, quail, prairie chicken, squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of rabbits and squirrels is permitted only during that portion of the State "small game season" that occurs during the State "upland game season."

(3) *Quivira National Wildlife Refuge.* Hunting of pheasant, bobwhite quail, squirrel, and rabbit is permitted on designated areas of the refuge.

(p) *Kentucky and Tennessee—Reelfoot National Wildlife Refuge.* Hunting of squirrels and raccoons is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting of squirrel is permitted from the fourth Saturday in August through October 15.

(2) Hunting of raccoon is permitted on four consecutive nights beginning on the last Wednesday in September and the first Wednesday in October.

(3) Hunting of raccoon is permitted from 7:30 pm to midnight.

(4) There is no bag limit for raccoons.

(5) Checking of bagged raccoon is required.

(q) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Dogs are permitted for rabbit hunting after the close of the last deer season.

(ii) Hunting of raccoon and opossum is permitted only during October.

(2) *Catahoula National Wildlife Refuge.* Hunting of squirrel and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the opening day of the State season through October 31.

(3) *D'Arbonne National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of raccoon and opossum is permitted only during January.

(ii) Feral hogs may be taken during all refuge hunts.

(4) *Delta National Wildlife Refuge.* Hunting of rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted from the day after the waterfowl season closes though the remainder of the State season.

(ii) Only shotguns are permitted.

(iii) Dogs are permitted.

(5) *Tensas River National Wildlife Refuge.* Hunting of squirrel, rabbit and raccoon is permitted on designated areas of the refuge subject to the following conditions.

(i) Permits are required.

(ii) Hunting is not permitted during the refuge deer gun hunts.

(iii) Hunting of squirrel and rabbit is permitted from the first Saturday in October through the Wednesday preceding Thanksgiving Day. Hunting of rabbit is also permitted from January 21 through the first Sunday in February.

(iv) Hunting of raccoon is permitted for nine days beginning the day after the last refuge rabbit season ends.

(6) *Upper Ouachita National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of raccoon and opossum is permitted only during January.

(ii) Feral hogs may be taken during all refuge hunts.

(r) *Maine—Rachel Carson National Wildlife Refuge.* Hunting of ring-necked pheasant and ruffed grouse is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(s) *Massachusetts—Oxbow National Wildlife Refuge.* Hunting of upland game birds and small game is permitted on designated areas of the refuge subject to the following conditions:

(1) Shotguns only are permitted.

(2) Vehicles are restricted to the designated parking area that is accessible from the Still River Depot Road. Entry by routes other than Still River Depot Road is not permitted.

(t) *Michigan—Seney National Wildlife Refuge.* Hunting of grouse and snowshoe hare is permitted on designated areas of the refuge subject to the following condition: Snowshoe hare hunting is permitted from December 1 through the end of February.

(u) *Minnesota*—(1) *Big Stone National Wildlife Refuge.* Hunting of gray partridge, ring-necked pheasant, gray and fox squirrel, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge.

(2) *Minnesota Valley National Wildlife Refuge.* Hunting of pheasant, gray and fox squirrel and cottontail rabbit is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(3) *Rice Lake National Wildlife Refuge.* Hunting of ruffed grouse, spruce grouse, gray and fox squirrel, cottontail rabbit and snowshoe hare is permitted on designated areas of the refuge.

(4) *Sherburne National Wildlife Refuge.* Hunting of ruffed grouse, ring-necked pheasant, gray and fox squirrel, snowshoe hare, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge.

(5) *Tamarac National Wildlife Refuge.* Hunting of ruffed grouse, gray and fox squirrel, cottontail rabbit, jackrabbit and snowshoe hare is permitted on designated areas of the refuge subject to the following condition: Hunting is in accordance with White Earth Indian Reservation regulations on those parts of the Reservation that are a part of the refuge.

(v) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of squirrel, rabbit, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Dogs are permitted for rabbit hunting following the last day of the State deer season.

(ii) Hunting of raccoon and opossum is permitted from the opening day of the State season through the month of November.

(2) *Hillside National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the

refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted during the entire State season, but the use of dogs for rabbit hunting is permitted only after the last day of the State deer season.

(5) *Noxubee National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, beaver, raccoon and opossum is permitted on designated areas of the refuge subject to the following condition: The bag limit for raccoon is one per day and the possession limit is two.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of quail, rabbit, squirrel, beaver, raccoon, and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel is permitted from the opening of the State season through December 15.

(iii) Hunting of rabbit is permitted from the opening of the State season through December 15 without dogs and during February with dogs.

(7) *Yazoo National Wildlife Refuge.* Hunting of squirrel, rabbit, raccoon, opossum and furbearers is permitted on designated areas of the refuge subject to the following special conditions:

(i) Permits are required.

(ii) Hunting of squirrel and rabbit is permitted through the third Friday in November.

(iii) Hunting of rabbit is permitted again beginning the second Saturday in February.

(iv) Hunting of raccoon and opossum is permitted on four consecutive nights beginning the fourth Wednesday in January.

(v) Beaver, nutria, muskrat, bobcat and coyote may be taken in season during any refuge hunt.

(w) *Missouri—Mingo National Wildlife Refuge.* Hunting of squirrel and turkey is permitted on designated areas of the refuge subject to the following conditions:

(1) Turkey hunting is permitted only during the State spring firearm and fall archery seasons.

(2) Hunting of squirrel is permitted from the opening of the State season through September 30.

(3) Hunters are required to check in and out of the refuge.

(x) *Montana*—(1) *Benton Lake National Wildlife Refuge.* Hunting of pheasant and partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through November 30.

(ii) Hunting is permitted from one-half hour before sunrise to sunset.

(2) *Bowdoin National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse, sage grouse, gray partridge, fox and coyote is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of fox and coyote is permitted from December 1 to March 1.

(ii) Hunters are required to check in and out of the refuge.

(3) *Charles M. Russell National Wildlife Refuge.* Hunting of upland game birds, turkey and coyote is per-

mitted on designated areas of the refuge.

(4) *Hailstone National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(5) *Lake Mason National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(6) *Medicine Lake National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse and Hungarian partridge is permitted on designated areas of the refuge.

(7) *War Horse National Wildlife Refuge.* Hunting of upland game birds is permitted on designated areas of the refuge.

(y) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge.

(2) *Valentine National Wildlife Refuge.* Hunting of pheasant, sharp-tailed grouse and prairie chicken is permitted on designated areas of the refuge.

(z) *Nevada*—(1) *Pahranagat National Wildlife Refuge.* Hunting of pheasant, quail, grouse, partridge and rabbit is permitted on designated areas of the refuge subject to the following condition: Hunting of jackrabbit is permitted only during the regular State season for cottontail rabbit.

(2) *Sheldon National Wildlife Refuge.* Hunting of quail, grouse and partridge is permitted on designated areas of the refuge.

(aa) *New Mexico*—(1) *Bitter Lake National Wildlife Refuge.* Hunting of quail, ring-necked and white-winged pheasant, quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the waterfowl season.

(ii) Hunters must use and be in possession of only shells containing steel shot in the South Unit (Area C) during waterfowl seasons.

(iii) Only shotguns and bows and arrows are permitted.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of jackrabbit and cottontail rabbit is permitted only during the State quail season.

(ii) Only shotguns and bows and arrows are permitted.

(bb) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of upland game birds, small game mammals, legally hunted furbearers and unprotected wildlife is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of furbearers.

(ii) Hunting is not permitted from March 1 through September 30.

(2) *Montezuma National Wildlife Refuge.* Hunting of gray squirrel, cottontail rabbit, raccoon, and fox is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for night hunting of raccoons.

(ii) Hunting is permitted from the third Sunday in December through the close of the respective State seasons.

(iii) Shotguns only are permitted, except that .22 caliber firearms may be used to take raccoon.

(cc) *North Carolina*—(1) *Pea Island National Wildlife Refuge.* Hunting of pheasant and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of pheasant is permitted on Saturdays from the last Saturday in October through the second Saturday in December and on two days beginning Thanksgiving Day. Hunting of rabbit is also permitted when the above dates coincide with the State rabbit season.

(iii) Only shotguns are permitted.

(2) *Pee Dee National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of squirrel is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

(ii) Hunting of quail is permitted from February 1 through February 14.

(iii) Hunting of rabbit is permitted from February 15 through the end of the State season.

(iv) Hunting of raccoon and opossum is permitted from the first day of the State season through the first Friday in November, except during any gun deer hunts.

(dd) *North Dakota*—(1) *Arrowwood National Wildlife Refuge.* Hunting of pheasant, grouse, Hungarian partridge, rabbit, and fox is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted from the day after the State deer gun season through the regular State late upland game season.

(2) *J. Clark Salyer National Wildlife Refuge.* Hunting of pheasant, partridge, grouse and turkey is permitted on designated areas of the refuge.

(3) *Lake Alice National Wildlife Refuge.* Hunting of upland game and fox is permitted on designated areas of the refuge.

(4) *Lostwood National Wildlife Refuge.* Hunting of sharp-tail grouse and Hungarian partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is not permitted on the portion of the refuge south of Highway 50 during the State deer gun season.

(ii) Hunting is permitted on the portion of the refuge north of Highway 50 only after the close of the State deer gun season.

(5) *Tewaukon National Wildlife Refuge.* Hunting of ring-necked pheasant is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted beginning the third day after the start of either the State late archery deer season or the normal State late pheasant season whichever is later.

(6) *Upper Souris National Wildlife Refuge.* Hunting of sharp-tailed grouse and Hungarian partridge is permitted on designated areas of the refuge subject to the following conditions:

(i) Designated areas are closed during the waterfowl and deer gun season.

(ii) Blaze orange vest and cap are required during the deer gun season.

(ee) *Oklahoma*—(1) *Optima National Wildlife Refuge.* Hunting of pheasant, bobwhite and scaled quail, cottontail rabbit and jackrabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(2) *Sequoyah National Wildlife Refuge.* Hunting of squirrel, quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(3) *Tishomingo National Wildlife Refuge.* Hunting of quail, squirrel and rabbit is permitted on the Tishomingo Wildlife Management Unit of the refuge subject to the following conditions:

(i) Hunting of upland game is not permitted in the goose hunting zone during the goose hunting season.

(ii) Hunters are required to check in and out of the refuge.

(4) *Washita National Wildlife Refuge.* Hunting of quail and rabbit is permitted on designated areas of the refuge subject to the following condition: Only shotguns and bows and arrows are permitted.

(ff) *Oregon*—(1) *Ankeny National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(2) *Baskett Slough National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(3) *Cold Springs National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only on Wednesdays, Saturdays, Sundays and

State holidays beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(iii) Hunting is permitted only by shotgun and bow and flu-flu arrow.

(4) *Deer Flat National Wildlife Refuge.* Hunting of upland game is permitted on the Snake River Sector subject to the following condition: Hunting is not permitted from February 1 through May 31.

(5) *Hart Mountain National Antelope Refuge.* Hunting of partridge and quail is permitted on designated areas of the refuge.

(6) *Lower Klamath National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: Possession of firearms in posted retrieving zones is not permitted except unloaded firearms may be taken through these zones when in transit to and from hunting areas.

(7) *Malheur National Wildlife Refuge.* Hunting of pheasant, quail, partridge, coyote and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of pheasant, quail, partridge and rabbit is permitted during the last nine days of the State pheasant season in designated zones of Blitzen Valley east of Highway 205. Hunting is also permitted on Malheur Lake during the waterfowl hunting season.

(ii) Hunting of coyote and rabbit is permitted from September 1 to January 31 on the refuge area west of Highway 205.

(8) *McKay Creek National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for both days on opening weekend.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays, and State holidays beginning at noon each day.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(iv) Hunting is permitted by shotgun and bow and flu-flu arrow only.

(9) *Sheldon National Wildlife Refuge.* Hunting of quail, grouse, and partridge is permitted on designated areas of the refuge.

(10) *Umatilla National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for hunting on the McCormack Unit for both days on opening weekend.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays, except Christmas Day, in the McCormack Unit.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(iv) Hunting is permitted by shotgun and bow and flu-flu arrow beginning at noon each day.

(11) *William L. Finley National Wildlife Refuge.* Hunting of pheasant and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted through October 31.

(ii) Hunters much check in and out of the refuge by use of self-service permits.

(gg) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of grouse, pheasant, quail, squirrel, rabbit, woodchuck, raccoon, skunk, fox and opossum is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required for hunting fox and raccoon.

(2) Hunting is not permitted from March 1 through August 31.

(hh) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of squirrel and raccoon is permitted only during the refuge deer season.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of quail, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for raccoon and opossum hunting.

(ii) Hunting of raccoon and opossum is permitted from March 1 through March 10.

(iii) Hunting of quail and rabbit is permitted only from the beginning of the State season to December 31.

(3) *Santee National Wildlife Refuge.* Hunting of bob-white quail, gray squirrel, rabbit, raccoon and opossum is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting of gray squirrel is permitted through September 30.

(iii) Hunting of quail and rabbit is permitted only during February.

(iv) Hunting of raccoon and opossum is permitted during the last ten days of the State season only.

(4) *Savannah National Wildlife Refuge.* Hunting of squirrels and rabbits is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

(iii) Hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(ii) *South Dakota*—(1) *Lacreek National Wildlife Refuge.* Hunting of ring-necked pheasant and sharp-tailed grouse is permitted on designated areas of the refuge subject to the following special condition: Permits are required.

(2) *Sand Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(3) *Pocasse National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(jj) *Tennessee*—(1) *Cross Creeks National Wildlife Refuge.* Hunting of squirrel is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted during the first two weeks of the State season.

(2) *Hatchie National Wildlife Refuge.* Hunting of quail, squirrel, rabbit, raccoon, and opossum is permitted on designated areas of the refuge subject to the following condition: Small game hunting is not permitted during the refuge deer archery and gun hunting season.

(3) *Lake Isom National Wildlife Refuge.* Hunting of squirrels and raccoons is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of squirrel is permitted from the fourth Saturday in August through October 15.

(ii) Hunting of raccoon is permitted on four consecutive nights beginning on the last Wednesday in September and again on four consecutive nights beginning on the first Wednesday in October.

(iii) Hunting of raccoon is permitted from 7:30 p.m. to midnight.

(iv) Checking of bagged raccoon is required.

(4) *Tennessee National Wildlife Refuge.* Hunting of squirrel and raccoon is permitted on designated areas of the refuge.

(kk) *Texas*—(1) *Buffalo Lake National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following condition: A refuge hunting permit is required.

(2) *Hagerman National Wildlife Refuge.* Hunting of squirrel, rabbit, and quail is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the hunt area.

(ii) Only shotguns and bows and arrows are permitted.

(iii) Upland game hunting is not permitted during the regular State waterfowl season.

(ll) *Utah*—(1) *Bear River Migratory Bird Refuge.* Hunting of pheasant is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunters are required to check in and out of the refuge.

(ii) Hunters must use and be in the possession of only shells containing steel shot.

(2) *Ouray National Wildlife Refuge.* Hunting of pheasant is permitted on designated areas of the refuge.

(mm) *Vermont*—*Missisquoi National Wildlife Refuge.* Hunting of upland game is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of rifles is not permitted on that portion of the refuge lying east of the Missisquoi River.

(2) Hunting is not permitted from January 1 through August 31.

(nn) *Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of pheasant, quail, partridge and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of upland game birds and rabbit is permitted only during State seasons that run concurrently with the State waterfowl season.

(ii) Only shotguns and bows and arrows are permitted.

(2) *Conboy Lake National Wildlife Refuge.* Hunting of grouse, pheasant, quail and partridge is permitted on designated areas of the refuge.

(3) *McNary National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted by shotgun or bow and flu-flu arrow only on Wednesdays, Saturdays, Sundays and State holidays beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(4) *Toppenish National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only by shotgun or bow and flu-flu arrow beginning at noon each day.

(ii) Hunting of rabbit is permitted only during the State waterfowl season.

(5) *Umatilla National Wildlife Refuge.* Hunting of upland game birds and rabbit is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only by shotgun or bow and flu-flu arrow beginning at noon each day.

(ii) Hunting is permitted only on Wednesdays, Saturdays, Sundays and State holidays in the Patterson Slough Unit.

(iii) Hunting of rabbit is permitted only during the State waterfowl season.

(6) *Willapa National Wildlife Refuge.* Hunting of blue and ruffed grouse is permitted on the Long Island Unit subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(oo) *Wisconsin*—(1) *Horicon National Wildlife Refuge.* Hunting of ring-necked pheasant, gray partridge, squirrel and cottontail rabbit is permitted subject to the following condition: Hunting is permitted from the opening of the respective State season through the State deer firearms season.

(2) *Necedah National Wildlife Refuge.* Hunting of small game is permitted on designated areas of the refuge.

(3) *Trempealeau National Wildlife Refuge.* Hunting of ring-necked pheasant, ruffed grouse, gray and fox squirrels and cottontail rabbits is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on that portion of the refuge lying north and west of the Green Bay and Western Railroad right-of-way.

(pp) *Wyoming*—(1) *Pathfinder National Wildlife Refuge.* Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge.

(2) *Seedskadee National Wildlife Refuge.* Hunting of sage grouse and cottontail rabbit is permitted on designated areas of the refuge.

[49 FR 36749, Sept. 19, 1984, as amended at 49 FR 37100, Sept. 21, 1984; 49 FR 38642, Oct. 1, 1984; 49 FR 43551, Oct. 30, 1984; 50 FR 34487, Aug. 26, 1985; 50 FR 35821, Sept. 4, 1985; 50 FR 37198, Sept. 12, 1985]

EDITORIAL NOTE: Amendments to § 32.22 published at 50 FR 35821, Sept. 4, 1985, and effective October 4, 1985, have been incorporated into this volume.

§ 32.31 List of open areas; big game.

The hunting of big game is authorized on the following wildlife refuge areas in accordance with the provisions of Subpart A of this part and § 32.32.

ALABAMA

Choctaw National Wildlife Refuge.
Eufaula National Wildlife Refuge.
Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Bering Sea National Wildlife Refuge.
Cape Newenham National Wildlife Refuge.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Buenos Aires National Wildlife Refuge.
Cabeza Prieta National Wildlife Refuge.
Cibola National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.
Kofa National Wildlife Refuge.

ARKANSAS

Big Lake National Wildlife Refuge.
Felsenthal National Wildlife Refuge.
Holla Bend National Wildlife Refuge.
Overflow National Wildlife Refuge.
White River National Wildlife Refuge.

CALIFORNIA

Cibola National Wildlife Refuge.
Clear Lake National Wildlife Refuge.

COLORADO

Arapaho National Wildlife Refuge.
Browns Park National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.
Prime Hook National Wildlife Refuge.

FLORIDA

Chassahowitzka National Wildlife Refuge.
Lake Woodruff National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
Loxahatchee National Wildlife Refuge.
St. Marks National Wildlife Refuge.
St. Vincent National Wildlife Refuge.

GEORGIA

Blackbeard Island National Wildlife Refuge.
Harris Neck National Wildlife Refuge.
Okefenokee National Wildlife Refuge.
Piedmont National Wildlife Refuge.
Savannah National Wildlife Refuge.
Wassaw National Wildlife Refuge.

IDAHO

Bear Lake National Wildlife Refuge.
Camas National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Grays Lake National Wildlife Refuge.
Kootenai National Wildlife Refuge.

ILLINOIS

Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

INDIANA

Muscatatuck National Wildlife Refuge.

IOWA

De Soto National Wildlife Refuege.
Mark Twain National Wildlife Refuge.
Union Slough National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.

KENTUCKY

Reelfoot National Wildlife Refuge.

LOUISIANA

Bogue Chitto National Wildlife Refuge.
Catahoula National Wildlife Refuge.
D'Arbonne National Wildlife Refuge.
Delta National Wildlife Refuge.
Lacassine National Wildlife Refuge.
Tensas River National Wildlife Refuge.
Upper Ouachita National Wildlife Refuge.

MAINE

Moosehorn National Wildlife Refuge.
Rachel Carson National Wildlife Refuge.

MARYLAND

Blackwater National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Eastern Neck National Wildlife Refuge.

MASSACHUSETTS

Oxbow National Wildlife Refuge.

MICHIGAN

Harbor Island National Wildlife Refuge.
Seney National Wildlife Refuge.
Shiawassee National Widlife Refuge.

MINNESOTA

Agassiz National Wildlife Refuge.
Big Stone National Wildlife Refuge.
Minnesota Valley National Wildlife Refuge.
Rice Lake National Wildlife Refuge.
Sherburne National Wildlife Refuge.

Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Bogue Chitto National Wildlife Refuge.
Hillside National Wildlife Refuge.
Mathews Brake National Wildlife Refuge.
Morgan Brake National Wildlife Refuge.
Noxubee National Wildlife Refuge.
Panther Swamp National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Clarence Cannon National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Mingo National Wildlife Refuge.
Swan Lake National Wildlife Refuge.

MONTANA

Black Coulee National Wildlife Refuge.
Charles M. Russell National Wildlife Refuge.
Creedman Coulee National Wildlife Refuge.
Halfbreed Lake National Wildlife Refuge.
Hewitt Lake National Wildlife Refuge.
Lake Mason National Wildlife Refuge.
Lake Thibadeau National Wildlife Refuge.
Lamesteer National Wildlife Refuge.
Lee Metcalf National Wildlife Refuge.
Medicine Lake National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.
UL Bend National Wildlife Refuge.
War Horse National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
De Soto National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Desert National Wildlife Range.
Sheldon National Wildlife Refuge.

NEW JERSEY

Great Swamp National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque del Apache National Wildlife Refuge.
San Andres National Wildlife Refuge.

NEW YORK

Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.

NORTH CAROLINA

Alligator River National Wildlife Refuge.
Great Dismal Swamp National Wildlife Refuge.
Mackay Island National Wildlife Refuge.
Pee Dee National Wildlife Refuge.
Pungo National Wildlife Refuge.

NORTH DAKOTA

Arrowwood National Wildlife Refuge.
Audubon National Wildlife Refuge.
Chase Lake National Wildlife Refuge.
Des Lacs National Wildlife Refuge.
J. Clark Salyer National Wildlife Refuge.
Lake Alice National Wildlife Refuge.
Lake Nettie National Wildlife Refuge.
Lake Zahl National Wildlife Refuge.
Long Lake National Wildlife Refuge.
Lostwood National Wildlife Refuge.
Slade National Wildlife Refuge.
Tewaukon National Wildlife Refuge.
Upper Souris National Wildlife Refuge.

OKLAHOMA

Salt Plains National Wildlife Refuge.
Tishomingo National Wildlife Refuge.
Wichita Mountains Wildlife Refuge.

OREGON

Baskett Slough National Wildlife Refuge.
Charles Sheldon Antelope Range.
Deer Flat National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Malheur National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.
Pinckney Island National Wildlife Refuge.
Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Pocasse National Wildlife Refuge.
Sand Lake National Wildlife Refuge.
Waubay National Wildlife Refuge.

TENNESSEE

Cross Creeks National Wildlife Refuge.
Hatchie National Wildlife Refuge.
Lower Hatchie National Wildlife Refuge.
Reelfoot National Wildlife Refuge.
Tennessee National Wildlife Refuge.

TEXAS

Aransas National Wildlife Refuge.
Hagerman National Wildlife Refuge.
Laguna Atascosa National Wildlife Refuge.

UTAH

Ouray National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

VIRGINIA

Back Bay National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Great Dismal Swamp National Wildlife Refuge.
Presquile National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Columbian White-tailed Deer National Wildlife Refuge.
Conboy Lake National Wildlife Refuge.
Little Pend Oreille National Wildlife Refuge.
Umatilla National Wildlife Refuge.
Willapa National Wildlife Refuge.

WISCONSIN

Fox River National Wildlife Refuge.
Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Trempealeau National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

WYOMING

National Elk Refuge.
Pathfinder National Wildlife Refuge.
Seedskadee National Wildlife Refuge.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 32.31, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 32.32 Refuge-specific regulations; big game.

(a) *Alabama*—(1) *Choctaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted from the opening day of the State season through December 1.

(2) *Eufaula National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Archery hunting is permitted during the State archery and gun season.

(iii) Checking of bagged game is required.

(3) *Wheeler National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject the following conditions:

(i) Permits are required.

(ii) Bow hunting is permitted during the first four weeks of the State season.

(iii) Hunting with bows and arrows and flintlock firearms is permitted during the last two weeks of the State season.

(iv) All hunters are required to wear an outergarment containing a minimum of 144 square inches of daylight fluorescent orange material visible from any angle during any refuge deer gun hunt.

(b) *Arizona*—(1) *Buenos Aires National Wildlife Refuge.* Hunting of mule deer, white-tailed deer, and javelina is permitted on designated areas of the refuge.

(2) *Cabeza Prieta National Wildlife Refuge.* Hunting of desert bighorn sheep is permitted on designated areas of the refuge subject to the following condition: Entry permits are required.

(3) *Havasu National Wildlife Refuge.* Hunting of desert bighorn sheep is permitted on designated areas of the refuge subject to the following condition: Hunting is only permitted on the part of the Bill Williams Unit south of the Planet Ranch Road in Unit 44A.

(4) *Kofa National Wildife Refuge.* Hunting of mule deer and desert bighorn sheep is permitted on designated areas of the refuge.

(c) *Arizona and California*—(1) *Cibola National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge subject to the following conditions:

(i) During the waterfowl season, hunting of deer is not permitted on Farm Unit 2 before 12:00 p.m. each day.

(ii) Hunting is not permitted within 50 yards of any road or levee or within 250 yards of any farmworker.

(iii) Only antlered deer may be taken.

(2) *Imperial National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(d) *Arkansas*—(1) *Big Lake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted from November 1 through December 31.

(2) *Felsenthal National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State season through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

(3) *Holla Bend National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunters are required to check in and out of the refuge.

(4) *Overflow National Wildlife Refuge.* Hunting of white-tailed deer, turkey, and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted only from the opening day of the State season through January 31, except by special permit during quota gun deer hunts.

(iii) Muzzleloader hunting is permitted during the last consecutive Friday and Saturday in October only.

(iv) Modern gun hunting is permitted during the State Thanksgiving Holiday hunt only.

(v) Firearms must be unloaded when transported or in refuge campgrounds.

(vi) Feral hogs may be taken during daylight hours of any refuge hunt with weapons legal for that hunt.

(5) *White River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth/adult hunt is permitted on the Friday and Saturday after Thanksgiving Day.

(iii) During the youth/adult deer hunt, all hunters over 15 years of age must be accompanied by at least one and not more than two youths, ages 15 and under.

(iv) Archery hunting is permitted from the opening day of the State season through October 31 and from the first Saturday in January through January 31.

(v) Muzzleloader hunting is permitted the last two days of the State's first muzzleloader deer season.

(vi) Hunting of deer with modern guns is permitted on the first Friday and Saturday of the first State deer gun season.

(vii) The bag limit for all deer gun hunts is one deer of either sex per hunt.

(viii) Hunting of turkey is permitted Wednesday through Saturday of the State spring season.

(ix) Checking of bagged game is required.

(e) *California—Clear Lake National Wildlife Refuge.* Hunting of pronghorn antelope is permitted on the controlled "U" Unit of the refuge subject to the following conditions:

(1) The unit is open to hunting only during the first 2 weekends of the State season.

(2) Access to the unit is permitted only through the gate located on Clear Lake Road.

(f) *Colorado*—(1) *Arapaho National Wildlife Refuge.* Hunting of pronghorn antelope is permitted on designated areas of the refuge.

(2) *Browns Park National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(g) *Delaware*—(1) *Bombay Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A permit is required on the Regular and Headquarters Deer Hunt Areas.

(ii) Hunting on the Headquarters Deer Hunt Area must be from designated stands only, unless actively tracking or retrieving wounded deer.

(iii) Only portable tree stands may be used and must be removed from the refuge each day.

(2) *Prime Hook National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting on Area A must be from designated stands only, unless actively tracking or retrieving wounded deer.

(iii) Hunting Areas A and B and the North Hunting Area are open to shotgun and muzzleloader hunting.

(iv) Archery hunting is permitted on the North Hunting Area only.

(v) Archery hunting is not permitted during the October primitive weapons season.

(vi) Only portable tree stands may be used and must be removed from the refuge each day.

(h) *Florida*—(1) *Chassahowitzka National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is pemitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Lake Woodruff National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on the first sixteen days of the State archery season.

(iii) Two four-day blackpowder hunts are permitted beginning on the first and third Thursdays following the close of the archery hunt.

(iv) During all hunts, hunters are required to remain on their stand from one-half hour before sunrise until 9:00 a.m.

(v) Hunters must wear a visible outer garment of daylight fluorescent orange material.

(3) *Lower Suwannee National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting on the Dixie County portion of the refuge will be in accordance with State regulations for the Perpetual Wildlife Management Area.

(ii) Hunting of white-tailed deer and feral hogs only is permitted on the Levy County portion of the refuge beginning the third Saturday in November and extending through the second Sunday in December, except on Thanksgiving.

(iii) Permits are required for hunting on the Levy County portion of the refuge.

(iv) Hunters must wear a visible outer garment of daylight fluorescent orange material.

(4) *Loxahatchee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted for six consecutive days beginning on the first Saturday in November.

(iii) One deer may be taken. Deer may be of either sex.

(iv) Buckshot, crossbows and handguns are not permitted.

(v) Guns must be unloaded and cased or dismantled when outside the hunting area and when the boat is enroute to or from the hunting area.

(5) *St. Marks National Wildlife Refuge.* Hunting of white-tailed deer, turkeys and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for 10 consecutive days beginning the first Friday in November.

(iii) Only bearded turkeys may be taken.

(iv) Antlerless deer may not be taken on the Panacea Unit of the refuge during the archery hunt.

(v) A bucks-only deer, turkey, and hog hunt using bows and arrows and/or muzzleloaders is permitted for three consecutive days beginning the third Friday in November.

(vi) Two three-day bucks-only deer, hog, and turkey hunts are permitted on consecutive weekends beginning on the fourth Friday in November.

(vii) A portion of the refuge is cooperatively administered as part of the Aucilla Wildlife Management Area, and State regulations apply entirely to this area.

(viii) A hogs-only hunt is permitted for three consecutive days beginning the second Friday in December.

(ix) Turkey hunting is permitted for ten consecutive days beginning on the fourth Friday in March.

(x) Hunters must wear a visible outer garment of daylight fluorescent orange material.

(6) *St. Vincent National Wildlife Refuge.* Hunting of white-tailed deer, turkey and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for three consecutive days beginning on Thurday of the first full week in November.

(iii) Hunters are required to check in and out of the refuge.

(iv) A primitive weapons hunt is permitted for three consecutive days beginning on the second Thursday in December and for three consecutive days beginning on the last Thursday of the State modern gun season.

(v) Two deer of either sex may be taken during each hunt.

(vi) One turkey of either sex may be taken during the archery hunt and the December primitive weapon hunt.

(vii) During the archery and primitive weapon hunts, hunters must remain on their stands from one-half hour before sunrise to 9:00 a.m.

(viii) Hunters must wear a visible outer garmet of daylight fluorescent orange material during the primitive weapons hunt.

(i) *Georgia*—(1) *Blackbeard Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for three consecutive days beginning the fourth Monday in October and for three consecutive days beginning the fourth Friday in November.

(iii) Two deer may be taken. Deer may be of either sex.

(iv) Hunters are required to check in and out of the refuge.

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(2) *Harris Neck National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on the fourth Saturday in September.

(iii) Shotgun hunting is permitted on the third Saturday in December.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Only shotguns are permitted during the gun hunt.

(vi) Hunters are required to check in and out of the refuge.

(vii) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(3) *Okefenokee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on Thursday, Friday and Saturday during the State archery season.

(iii) Shotgun hunting is permitted on the Cowhouse Island Unit on the first Saturday of the State firearm season and on alternate Saturdays thereafter through December 31.

(iv) Shotgun hunting is permitted on the Pocket Unit on the first Saturday of November and December.

(v) Shotgun hunting is permitted on the Suwannee Canal Recreation Area on the first and second Thursdays and Fridays of the State firearm season.

(vi) Deer of either sex may be taken.

(vii) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(4) *Piedmont National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted for 16 consecutive days beginning on the last Saturday in September.

(iii) Primitive weapons hunting of deer is permitted for three consecutive days beginning on the Thursday following the opening of the State deer firearms season. Deer taken on this hunt must have three or more points on one side or must be anterless.

(iv) A bucks-only deer hunt is permitted for three consecutive days beginning two weeks after the opening of the refuge primitive weapons hunt.

(v) Three 3-day turkey hunts are permitted beginning on the first, second and third Thursdays in April.

(vi) Only still hunting is permitted.

(vii) A general gun deer hunt is permitted on the two Saturdays following the bucks-only deer hunt and on the first Saturday in December.

(viii) Checking of bagged game is required.

(5) *Wassaw National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted on three consecutive days beginning the second Friday in November. Primitive weapons are also permitted on the third day of this hunt.

(iii) Gun hunting is permitted on two consecutive days beginning the second Friday in December.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(vi) Hunters are required to check in and out of the refuge.

(j) *Georgia and South Carolina—Savannah National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted for seven consecutive days beginning the fourth Monday in October.

(3) Only shotguns and bows and arrows are permitted.

(4) Hunters must wear a minimum of 500 square inches of fluorescent orange colored material above the waistline.

(5) Two deer may be taken. Deer may be of either sex.

(k) *Idaho*—(1) *Deer Flat National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on the Snake River Sector.

(2) *Kootenai National Wildlife Refuge.* Hunting of deer, elk, black bear, moose and mountain lion is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on that portion of the refuge that lies west of the West Side Road.

(l) *Illinois—Crab Orchard National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) A special permit issued by the Illinois Department of Conservation is required.

(2) Hunting is permitted only during the State shotgun and bow and arrow seasons.

(3) Hunters using Area II are required to check in at the refuge fire station prior to hunting.

(4) Hunting is permitted only from ground level.

(m) *Illinois, Iowa, Minnesota and Wisconsin—Upper Mississippi River Wild Life and Fish Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunting is not permitted on the Goose Island Area in Pool 8.

(2) Hunting of deer is permitted on other areas that are closed during the waterfowl hunting season and are designated by signs as "Area Closed" beginning the day after the close of the applicable State duck hunting season.

(3) Construction or use of permanent blinds, platforms or ladders is not permitted.

(4) All stands must be removed from the refuge at the end of each day's hunt.

(n) *Illinois, Iowa, and Missouri—Mark Twain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Firearms hunting is permitted on the Bear Creek Unit of the Gardner Division. Firearms hunting is permitted on the remainder of the Gardner Division during part of the November firearms season only. Hunting is permitted from 6:30 a.m. to 3:00 p.m. A refuge permit is required.

(2) Archery hunting is permitted on the Bear Creek Unit of the Gardner Division. Archery hunting is permitted on the remainder of the Gardner Division during part of the Illinois archery deer season only. A refuge permit is required.

(3) Hunting is permitted on the Big Timber Division and on Turkey and Otter Islands during the State season.

(o) *Indiana—Muscatatuck National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Only bow and arrow and muzzleloaders are permitted.

(3) The construction and use of permanent blinds, platforms or ladders is not permitted.

(p) *Iowa*—(1) *DeSoto National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iv) All stands must be removed from the refuge by the close of the season.

(2) *Union Slough National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge.

(q) *Kansas*—(1) *Flint Hills National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following condition: The use of rifled firearms is not permitted.

(2) *Kirwin National Wildlife Refuge.* Hunting of deer and turkey is permitted on designated areas of the refuge subject to the following conditions: Only archery hunting of deer is permitted.

(r) *Louisiana*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of white-tailed deer, turkey and unmarked feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Only still hunting is permitted.

(ii) Unmarked feral hogs may be taken only during the refuge deer seasons.

(iii) Bucks-only deer gun hunting is permitted on six consecutive days beginning the fourth Saturday of November.

(iv) Either-sex deer gun hunting is permitted on three consecutive days beginning on the Friday after Thanksgiving.

(2) *Catahoula National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted.

(ii) Muzzleloader hunting for deer (bucks only) and unmarked feral hogs is permitted from January 2 through January 20.

(iii) Checking of bagged game is required.

(3) *D'Arbonne National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: Hunting of deer with guns is permitted through the Saturday after Thanksgiving Day.

(4) *Delta National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted from the opening of the State season through October 31.

(ii) Only portable stands are permitted and they must be removed from the refuge after each day's hunt.

(5) *Lacassine National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the

refuge subject to the following conditions:

(i) Hunting is permitted from October 1 through October 31.

(ii) Only archery hunting is permitted.

(6) *Tensas River National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Either-sex deer hunting is permitted within the framework of State regulations.

(iii) The bag limit for all gun hunts is one deer per day. Deer may be of either sex.

(iv) Hunters are required to check in and out of the refuge.

(v) Checking of bagged game is required.

(7) *Upper Ouachita National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following condition: The refuge gun season for deer closes the Saturday after Thanksgiving Day.

(s) *Kentucky and Tennessee—Reelfoot National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Permits are required.

(2) Hunting is permitted for two consecutive days beginning on the first Saturday in November and for two consecutive days beginning on the third Saturday in November.

(3) One deer of either sex may be taken.

(4) Hunters are required to check in and out of the refuge.

(t) *Maine*—(1) *Moosehorn National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Rachel Carson National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotgun and archery hunting are permitted.

(u) *Maryland*—(1) *Blackwater National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Handguns and breech-loading rifles are not permitted.

(iii) In the headquarters hunt area, hunters must remain within 30 feet of their stand, unless actively tracking or retrieving wounded deer.

(2) *Eastern Neck National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only one deer of either sex may be taken.

(iii) Only archery, shotgun, and muzzleloader hunting is permitted.

(iv) Loaded weapons are not permitted in parking areas or on blacktopped roads.

(v) *Michigan*—(1) *Harbor Island National Wildlife Refuge.* Hunting of white-tailed deer and black bear is permitted on designated areas of the refuge.

(2) *Seney National Wildlife Refuge.* Hunting of deer and bear is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting of deer with bow and arrow only is permitted from the opening of the State season through November 12 and from December 1 through the end of the State deer archery season.

(ii) Hunting of bear is permitted with gun or bow and arrow only.

(iii) The use of dogs while hunting bear is not permitted.

(3) *Shiawassee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(w) *Minnesota*—(1) *Agassiz National Wildlife Refuge.* Hunting of white-tailed deer and moose is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(2) *Big Stone National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the

refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(3) *Minnesota Valley National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(4) *Rice Lake National Wildlife Refuge.* Hunting of white tailed-deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(5) *Sherburne National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) The construction or use of permanent blinds, platforms or ladders is not permitted.

(ii) All stands must be removed from the refuge at the end of each day's hunt.

(6) *Tamarac National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is in accordance with White Earth Reservation regulations on those portions of the Reservation that are a part of the refuge.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge at the end of each day's hunt.

(x) *Mississippi*—(1) *Bogue Chitto National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted.

(ii) A 14-day primitive weapon deer hunt is permitted beginning December 2. During this hunt, one deer of either sex may be taken.

(iii) An 8-day gun deer hunt is permitted beginning December 16. During this hunt, only male deer may be taken.

(2) *Hillside National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth deer hunt for persons age 15 and under is permitted for two consecutive days beginning on the third Saturday in November. Only such youths may carry, handle or discharge firearms during this hunt.

(iii) General gun deer hunting is permitted on the third Thursday of December.

(iv) Only still hunting is permitted.

(v) Muzzleloader deer hunting is permitted for eight consecutive days beginning the first Saturday of the State season.

(3) *Mathews Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(4) *Morgan Brake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery and primitive weapons hunting are permitted.

(ii) Permits are required.

(iii) Only still hunting is permitted.

(5) *Noxubee National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotguns are permitted for turkey hunting.

(iii) Checking of bagged game is required.

(iv) Only portable stands are permitted.

(6) *Panther Swamp National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on desig-

nated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth deer hunt is permitted on the first day of the State either-sex deer season.

(iii) Only still hunting is permitted.

(iv) Only shotguns are permitted for turkey hunting.

(v) General gun hunting for deer is permitted from the beginning of the State season through November 30 and from December 24 through December 31.

(7) *Yazoo National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The youth deer hunt for persons age 15 and under is permitted for three consecutive days beginning with Thanksgiving Day.

(iii) During the youth deer hunt only the youth may carry, handle and/or discharge the firearm.

(iv) Muzzleloader deer hunting is permitted during the first five days of the State season excluding Sunday and Monday.

(v) General gun deer hunting is permitted the first Saturday of the State season following the muzzleloader hunt.

(vi) Hunting of turkey is permitted each Friday and Saturday during the State April season.

(vii) Only shotguns are permitted for turkey hunting.

(viii) Bag limits are one bearded turkey, and one deer for all deer gun hunts.

(ix) Only still hunting is permitted.

(x) Hunters are required to check in and out of the refuge.

(xi) Checking of bagged game is required.

(y) *Missouri*—(1) *Mingo National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery and primitive weapons hunting are permitted.

(ii) Hunters are required to check in and out of the refuge.

(iii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iv) All stands must be removed from the refuge by the close of the season.

(2) *Swan Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only primitive weapons are permitted for hunting on designated areas of the refuge.

(z) *Montana*— (1) *Charles M. Russell National Wildlife Refuge.* Hunting of big game is permitted on designated areas of the refuge subject to the following special conditions:

(i) Hunting of coyotes is permitted from the first day of the general Statewide antelope season through February 5.

(ii) Off-road retrieval of downed game by motor vehicle is not permitted.

(2) *Lee Metcalf National Wildlife Refuge.* Hunting of white-tailed and mule deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Firearms are not permitted.

(iii) Hunters are required to check in and out of the refuge.

(3) *Medicine Lake National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(4) *Red Rock Lakes National Wildlife Refuge.* Hunting of deer, elk, moose and pronghorn antelope is permitted on designated areas of the refuge.

(aa) *Nebraska*—(1) *Crescent Lake National Wildlife Refuge.* Hunting of white-tailed deer, mule deer, and pronghorn antelope is permitted on designated areas of the refuge subject to the following condition: Checking of bagged game is required.

(2) *DeSoto National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted on the area located west of the

Missouri River. Firearms are not permitted on this area.

(iii) Muzzleloader hunting of deer is permitted on the area located in the central portion of the refuge. Entry to this hunting area is permitted one hour before shooting hours. All permit holders and their vehicles must be out of the designated shooting hunting area no later than one hour after sunset.

(iv) The construction or use of permanent blinds, platforms or ladders is not permitted.

(v) All stands must be removed from the refuge by the close of the season.

(3) *Valentine National Wildlife Refuge.* Hunting of white-tailed deer and mule deer is permitted on designated areas of the refuge.

(bb) *Nevada*—(1) *Desert National Wildlife Range.* Hunting of bighorn sheep is permitted on designated areas of the range subject to the following conditions:

(i) Bighorn sheep guides are required to obtain a Special Use Permit prior to taking clients on to the range.

(ii) Only bighorn sheep tag holders may possess or carry a firearm or bow that must be a legal weapon as defined by State regulations.

(iii) Natural mortalities or "pickup heads" found on the range are government property and possession or removal of them from the range is not permitted.

(2) *Sheldon National Wildlife Refuge.* Hunting of deer, antelope and bighorn sheep is permitted on designated areas of the refuge.

(cc) *New Jersey—Great Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Hunters must comply with State laws governing special deer permit hunts.

(2) All hunters must attend the refuge hunter orientation and show proof of completion of a refuge firearms proficiency test before hunting.

(dd) *New Mexico*—(1) *Bitter Lake National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(2) *Bosque del Apache National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge subject to the following condition: Permits are required for hunting in the Bottomlands Management Hunt Unit.

(ee) *New York*—(1) *Iroquois National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(2) *Montezuma National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(ff) *North Carolina*—(1) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iii) Dogs are not permitted.

(2) *Mackay Island National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery and shotgun hunting are permitted.

(iii) Dogs are not permitted.

(iv) Shotgun hunters must hunt from designated stands.

(3) *Pee Dee National Wildlife Refuge.* Hunting of white-tailed deer, is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the gun hunts.

(ii) Muzzleloader hunting is permitted the first Tuesday of the State (Anson County) muzzleloader gun season.

(iii) One deer may be taken during each gun hunt. Deer may be of either sex.

(iv) Archery hunting for deer is permitted the entire State season.

(v) Youth gun hunting is permitted on the first Saturday of the State (Anson County) gun season. During the youth deer hunt, only persons 15 years and under may carry, handle, or discharge firearms.

(vi) Gun hunting is permitted on the second Monday, Tuesday, Friday, and Saturday of the State (Anson County) gun season.

(4) *Pungo National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Gun hunting is permitted on four consecutive Fridays and Saturdays beginning with the second Friday of October.

(iii) Only shotguns and primitive weapons are permitted during the gun hunts.

(iv) Archery hunting is permitted during the State season.

(gg) *North Dakota*—(1) *Arrowwood National Wildlife Refuge.* Hunting of deer is permitted on designated areas subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(2) *Audubon National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and a half days of the State gun season.

(ii) Hunting with bow and arrow is permitted only from noon of the day following the close of the State deer firearms season through the close of the State archery season.

(3) *Chase Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(4) *Des Lacs National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and a half days of the State gun season.

(ii) Only persons with valid permits are permitted on the refuge during the first one and one half days of the season.

(iii) Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following deer gun season.

(5) *J. Clark Salyer National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(6) *Lake Alice National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted on the refuge's Special Archery Unit.

(ii) Only portable devices or natural materials for temporary blinds and tree stands are permitted.

(7) *Lake Nettie National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted only from noon of the day following the close of the State deer firearms season until the close of the State archery serson.

(8) *Lake Zahl National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only archery hunting is permitted.

(ii) Hunting is not permitted from the opening day of the State waterfowl season through the close of the State deer gun season.

(9) *Long Lake National Wildlife Refuge.* Hunting of white-tailed deer is permitted on the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season and it is permitted following the deer gun season.

(10) *Lostwood National Wildlife Refuge.* Hunting of deer only is permitted on designated areas of the refuge subject to the following conditions:

(i) Refuge and State permits are required for the first one and one half days of the State gun season.

(ii) Only persons with valid permits are permitted on the refuge during the first one and one half days of the season.

(iii) Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(11) *Slade National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Archery hunting is permitted through the day before the opening of the State waterfowl season, and it is permitted following the deer gun season.

(12) *Tewaukon National Wildlife Refuge.* Hunting of white-tailed deer is permittted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only during the State late archery deer season.

(ii) In those years when a pheasant hunt is permitted, the refuge deer season closes the day before the pheasant season begins. If the State's late pheasant and deer seasons begin on the same day, deer hunting only is permitted for the first two days after which the refuge pheasant season begins.

(13) *Upper Souris National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

(hh) *Okahoma*—(1) *Salt Plains National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(2) *Tishomingo National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Hunters are required to check in and out of the hunt area.

(3) *Wichita Mountains Wildlife Refuge.* Hunting of elk and white-tailed deer is permitted on designated areas of the refuge subject to the following condition: Permits are required.

(ii) *Oregon*—(1) *Deer Flat National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Hunting is permitted only on the Snake River Sector.

(2) *Hart Mountain National Antelope Refuge.* Hunting of deer, antelope and bighorn sheep is permitted on designated areas of the refuge.

(3) *Malheur National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(4) *Sheldon National Wildlife Refuge.* Hunting of deer and antelope is permitted on designated areas of the refuge.

(5) *William L. Finley National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Only shotgun and archery hunting are permitted.

(ii) Hunters must check in and out of the refuge by use of self-service permits.

(jj) *Pennsylvania—Erie National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(1) Target practice or random shooting is not permitted.

(2) The construction or use of permanent blinds, platforms and scaffolds is not permitted.

(kk) *South Carolina*—(1) *Cape Romain National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Two six-day hunts are permitted beginning on the first Mondays in November and December.

(2) *Carolina Sandhills National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted from the third Monday in October through the following Saturday.

(ii) Hunting with bows and arrows and muzzleloading firearms is permitted from the last Monday in October through the following Friday.

(iii) Hunting with modern rifles and shotguns is permitted for three consecutive days beginning on the Wednesday of the week preceding Thanksgiving Day.

(iv) Checking of bagged deer is required.

(v) In addition to the State bag limits, one antlerless deer may be taken during each of the three hunt seasons.

(vi) Only still hunting is permitted.

(vii) Hunters are required to wear a visible outergarment made of daylight fluorescent orange material.

(3) *Pinckney Island National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunting is permitted on the second Saturday in October and the third Saturday in November.

(iii) Only shotguns are permitted.

(iv) Two deer may be taken. Deer may be of either sex.

(v) Hunters are required to check in and out of the refuge.

(vi) Hunters are required to remain on their stands from one-half hour before sunrise until 9:00 a.m. and from two hours before sunset until sunset unless a deer is taken.

(vii) Hunters are required to wear a visible outergarment made of daylight fluorescent orange material.

(4) *Santee National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting on the Cuddo Unit is permitted from the third Monday in October through the following Saturday.

(iii) Primitive weapons hunting on the Cuddo Unit is permitted from the fourth Monday in October through the following Saturday.

(iv) Primitive weapons hunting on the Pine Island Unit is permitted from the second Monday in October through the following Saturday.

(v) Hunters are required to check in and out of the refuge.

(vi) All hunters are required to wear a visible outergarment made of daylight fluorescent orange material during the gun hunts.

(ll) *South Dakota*—(1) *Lacreek National Wildlife Refuge.* Hunting of white-tailed deer and mule deer is permitted on designated areas of the refuge subject to the following conditions: Permits are required.

(2) *Sand Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(3) *Pocasse National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(4) *Waubay National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(mm) *Tennessee*—(1) *Cross Creeks National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Archery hunting is permitted during the first two weeks of the State archery season.

(ii) Checking and tagging of bagged deer is required.

(2) *Hatchie National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required for the firearms deer hunt and turkey hunt.

(ii) Checking of bagged deer taken during the firearms hunt is required.

(iii) Gun hunting is permitted on two consecutive days beginning on the fourth Saturday in October. One deer may be taken. Deer may be of either sex.

(iv) Archery hunting is permitted for the first 16 days of the State season. Two deer may be taken. Deer may be of either sex.

(3) *Lower Hatchie National Wildlife Refuge.* Hunting of white-tailed deer, turkey and feral hogs is permitted on designated areas of the refuge.

(4) *Tennessee National Wildlife Refuge.* Hunting of white-tailed deer and turkey is permitted on designated areas of the refuge subject to the following condition: Permits are required for the turkey, primitive weapons and conventional gun deer hunts.

(nn) *Texas*—(1) *Aransas National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) The entire refuge or any portion thereof may be immediately closed to hunting in the event of the appearance of whooping crane in the hunt area.

(ii) Hunters are required to report at designated check station(s) upon entering and leaving the refuge.

(iii) Permits are required for the firearms hunt.

(iv) Firearms hunting is permitted the first five days of the State season.

(v) The bag limit for the firearms hunt is two deer per hunter. Sex and age limits for deer are set annually by the refuge manager.

(vi) Hunters are required to wear international orange caps and vests.

(vii) Archery hunting is permitted the first Saturday of the State season through the second Sunday of the State season.

(viii) Deer may not be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(ix) Hunters shall be at least 12 years of age. Hunters between the ages of, and including, 12 and 17 must hunt under the supervision of an adult 21 years of age or older.

(2) *Hagerman National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following special condition: Permits are required.

(3) *Laguna Atascosa National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Archery hunting is permitted in mid-October on specified days listed in the refuge hunt brochure.

(iii) Firearms hunting is permitted in early December on specified days listed in the refuge hunt brochure.

(iv) The bag limit for the firearms hunt is two deer. Sex and age limits for deer are set annually by the refuge manager.

(v) Hunters are required to wear international orange caps and vests.

(vi) Deer may not be removed from the refuge without a metal transportation seal being attached to the carcass by a refuge officer.

(vii) Hunters shall be at least 12 years of age. Hunters between the ages of, and including, 12 and 17 must hunt under the supervision of an adult 21 years of age or older.

(oo) *Utah—Ouray National Wildlife Refuge.* Hunting of mule deer is permitted on designated areas of the refuge.

(pp) *Vermont—Missiquoi National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotguns may be used on that part of the refuge east of the Missisquoi River during the State regular season.

(qq) *Virginia*—(1) *Back Bay National Wildlife Refuge.* Hunting of white-tailed deer and feral hogs is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only shotguns 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bow and arrow, are permitted.

(iii) Dogs are not permitted.

(iv) Possession of loaded firearms or nocked arrows is not permitted on refuge roads or proclamation waters.

(v) Hunters must wear in a conspicuous manner on head, chest, and back, a minimum of 400 square inches of "hunter orange" clothing or material.

(2) *Chincoteague National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Shotgun hunters must use rifled slugs only.

(iii) Dogs are not permitted.

(3) *Great Dismal Swamp National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(iv) Dogs are not permitted.

(4) *Presquile National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) One deer of either sex may be taken.

(iii) Dogs are not permitted.

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(iv) Only shotguns, 20 gauge or larger, loaded with buckshot and/or rifled slugs, and bows and arrows, are permitted.

(v) Shotgun hunters must remain on their assigned stand unless tracking or retrieving a wounded deer.

(vi) Archers must remain on their assigned stand from ½ hours before sunrise to 10:00 a.m., after which time they may hunt anywhere within the hunt area.

(rr)*Washington*—(1) *Columbia National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following condition: Only shotgun and archery hunting are permitted.

(2) *Conboy Lake National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge.

(3) *Umatilla National Wildlife Refuge.* Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted by shotgun only beginning at noon each hunt day.

(ii) Hunting is permitted on the Patterson Slough Unit on Wednesdays, Saturdays, Sundays and State holidays.

(4) *Willapa National Wildlife Refuge.* Hunting of deer, elk and bear is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Only archery hunting is permitted.

(iii) Hunting is permitted only on the Long Island Unit.

(ss) *Wisconsin*—(1) *Fox River National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(2) *Horicon National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Hunting is permitted only during the early archery and State firearms seasons.

(ii) The construction and use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge following each day's hunt.

(3) *Necedah National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) Discharging a firearm from across, down or alongside roads and trails is not permitted.

(ii) The construction or use of permanent blinds, platforms or ladders is not permitted.

(iii) All stands must be removed from the refuge following each day's hunt.

(4) *Trempealeau National Wildlife Refuge.* Hunting of white-tailed deer is permitted on designated areas of the refuge subject to the following conditions:

(i) A refuge permit is required for archery hunting, and a valid State permit for Quota Area 61B is required for the firearms deer hunt.

(ii) Firearms hunting is permitted during the first two days of the State firearms deer season. The taking of deer is permitted only by shotgun or muzzleloader.

(iii) Archery hunting is permitted only during the December State season, and only on part of the refuge lying west of the auto tour road.

(iv) The construction or use of permanent blinds, platforms, or ladders is not permitted.

(v) Portable blinds or platforms must be removed from the refuge after each day's hunt.

(tt) *Wyoming*—(1) *National Elk Refuge.* Hunting of elk is permitted on designated areas of the refuge subject to the following conditions:

(i) Permits are required.

(ii) Hunters may not be let out of vehicles on refuge roads.

(iii) Shooting from or across refuge roads and parking areas is not permitted.

(iv) The use of citizen band (CB) radios in the hunt area is not permitted.

(2) *Pathfinder National Wildlife Refuge.* Hunting of pronghorn ante-

lope and deer is permitted on designated areas of the refuge.

(3) *Seedskadee National Wildlife Refuge.* Hunting of pronghorn antelope and mule deer is permitted on designated areas of the refuge.

[49 FR 36754, Sept. 19, 1984, as amended at 49 FR 37100, Sept. 21, 1984; 49 FR 38642, Oct. 1, 1984; 49 FR 43551, Oct. 30, 1984; 49 FR 50049, Dec. 26, 1984; 50 FR 34487, Aug. 26, 1985; 50 FR 35822, Sept. 4, 1985]

EDITORIAL NOTE: Amendments to § 32.32 published at 50 FR 35822, Sept. 4, 1985, and effective October 4, 1985, have been incorporated into this volume.

Subpart D—Information Collection

§ 32.41 Approved information collection requirements.

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (Pub. L. 96-511). These requirements are presently approved by the Office of Management and Budget under the OMB approval numbers cited:

Type of information collection	OMB approval No.
Hunter surveys	1018-0044
Special use permits	1018-0046
Hunter reservation/application/blind assignment	1018-0047
Weapon qualification	1018-0050

These regulations impose no new reporting or recordkeeping requirements that must be cleared by the Office of Management and Budget. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information will be used to award benefits. Response is mandatory to obtain a benefit.

(16 U.S.C. 460k, 668dd; 44 U.S.C. 3501 et seq.)

[47 FR 40324, Sept. 13, 1982]

PART 33—SPORT FISHING

Subpart A—General Provisions

Sec.
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33.2 General regulations and information collection requirements.
33.3 Procedure for publication of refuge-specific fishing regulations.
33.4 List of open areas; sport fishing.

Subpart B—Refuge-Specific Regulations for Sport Fishing

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33.6 Alaska. [Reserved]
33.7 Arizona.
33.8 Arkansas.
33.9 California.
33.10 Colorado. [Reserved]
33.11 Connecticut. [Reserved]
33.12 Delaware. [Reserved]
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33.33 New Hampshire. [Reserved]
33.34 New Jersey.
33.35 New Mexico.
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33.39 Ohio. [Reserved]
33.40 Oklahoma.
33.41 Oregon.
33.42 Pennsylvania.
33.43 Rhode Island. [Reserved]
33.44 South Carolina.
33.45 South Dakota. [Reserved]
33.46 Tennessee.
33.47 Texas.
33.48 Utah. [Reserved]
33.49 Vermont.
33.50 Virginia.
33.51 Washington.
33.52 West Virginia. [Reserved]
33.53 Wisconsin.
33.54 Wyoming. [Reserved]

AUTHORITY: Sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10, 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718d, 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb; Proclamation 2416, 5 FR 2677, 3 CFR, 1938-1943 Comp., p. 167; E. O. 1014 (Jan. 26, 1909).

Subpart A—General Provisions

§ 33.1 Opening of wildlife refuge areas to fishing.

Wildlife refuge areas may be opened to sport fishing only after a determination is made that this activity is compatible with the purposes for which the refuge was established. In addition, the sport fishing program must be consistent with principles of sound fishery management and otherwise be in the public interest. The opening or closing of wildlife refuge areas to fishing is subject to the rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*). Lands acquired as "waterfowl production areas" are open to sport fishing subject to the provisions of State laws and regulations and the pertinent provisions of Parts 25 through 31 of this subchapter: *Provided*, that fishing or entry on all or any part of individual areas may be temporarily suspended by posting upon occasions of unusual or critical conditions of, or affecting, land, water, vegetation or fish and wildlife populations.

[50 FR 29975, July 23, 1985]

§ 33.2 General regulations and information collection requirements.

The following provisions shall apply to each person while engaged in public sport fishing on a wildlife refuge area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with the applicable provisions of Federal law and regulation including this subchapter.

(c) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any area is located unless the same are further restricted by Federal law or regulation.

(d) Each person shall comply with the terms and conditions authorizing access and use of the wildlife refuge area.

(e) Each person shall comply with the provisions of any refuge-specific regulation governing fishing on the wildlife refuge area. Regulations for a particular wildlife refuge are available at its headquarters office. In addition, refuge-specific fishing regulations are codified in §§ 33.5 through 33.54.

The Service has received approval from the Office of Management and Budget (OMB) for the information collection requirements of these regulations pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements are presently approved by OMB under the OMB approval numbers cited:

Type of information collection	*OMB approval No.*
Off-road vehicle permit applications	1018-0041
Special use permits	1018-0046

These regulations impose no new reporting or record keeping requirements that must be cleared by OMB. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities that require recreational uses be compatible with the primary purposes for which the areas were established. The information is used to award benefits. A response is mandatory to obtain a benefit.

[31 FR 16031, Dec. 16, 1966, as amended at 50 FR 29975, July 23, 1985]

§ 33.3 Procedure for publication of refuge-specific fishing regulations.

(a) Refuge-specific fishing regulations are issued only at the time of or after the opening of a wildlife refuge area to sport fishing.

(b) Refuge-specific fishing regulations may contain the following items:

(1) Fish species that may be taken,

(2) Seasons,

(3) Creel limits,

(4) Methods of fishing,

(5) Description of areas open to fishing, or

(6) Other provisions as required.

(c) Refuge-specific fishing regulations will not liberalize existing State laws or regulations.

(d) Refuge-specific fishing regulations are subject to change and the public is invited to submit suggestions and comments for consideration at any time.

(e) Refuge-specific fishing regulations are initially published in the daily issue of the FEDERAL REGISTER and are codified in §§ 33.5 through 33.54 of this part.

(f) Refuge-specific fishing regulations may be amended as needed when unpredictable changes occur in fish and wildlife populations, habitat conditions or in other factors affecting a refuge's fish and wildlife resources.

[50 FR 29975, July 23, 1985]

§ 33.4 List of open areas; sport fishing.

Sport fishing is authorized on the following wildlife refuge areas in accordance with the provisions of §§ 33.1, 33.2, and 33.5 through 33.54.

ALABAMA

Bon Secour National Wildlife Refuge.
Choctaw National Wildlife Refuge.
Eufaula National Wildlife Refuge.
Wheeler National Wildlife Refuge.

ALASKA

Aleutian Islands National Wildlife Refuge.
Arctic National Wildlife Range.
Bering Sea National Wildlife Refuge.
Cape Newenham National Wildlife Refuge.
Clarence Rhode National Wildlife Range.
Izembek National Wildlife Range.
Kenai National Moose Range.
Kodiak National Wildlife Refuge.
Nunivak National Wildlife Refuge.

ARIZONA

Cibola National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.

ARKANSAS

Big Lake National Wildlife Refuge.
Felsenthal National Wildlife Refuge.
Holla Bend National Wildlife Refuge.
Wapanocca National Wildlife Refuge.
White River National Wildlife Refuge.

CALIFORNIA

Antioch Dunes National Wildlife Refuge.
Cibola National Wildlife Refuge.
Colusa National Wildlife Refuge.
Delevan National Wildlife Refuge.
Havasu National Wildlife Refuge.
Imperial National Wildlife Refuge.
Modoc National Wildlife Refuge.
Sacramento National Wildlife Refuge.
Salton Sea National Wildlife Refuge.
San Francisco Bay National Wildlife Refuge.
San Luis National Wildlife Refuge.
Tule Lake National Wildlife Refuge.

COLORADO

Arapaho National Wildlife Refuge.
Browns Park National Wildlife Refuge.
Monte Vista National Wildlife Refuge.

DELAWARE

Bombay Hook National Wildlife Refuge.

FLORIDA

Cedar Keys National Wildlife Refuge.
Chassahowitzka National Wildlife Refuge.
Egmont Key National Wildlife Refuge.
Hobe Sound National Wildlife Refuge.
J.N. "Ding" Darling National Wildlife Refuge.
Lake Woodruff National Wildlife Refuge.
Lower Suwannee National Wildlife Refuge.
Loxahatchee National Wildlife Refuge.
Merritt Island National Wildlife Refuge.
Pelican Island National Wildlife Refuge.
Pinellas National Wildlife Refuge.
St. Marks National Wildlife Refuge.
St. Vincent National Wildlife Refuge.

GEORGIA

Banks Lake National Wildlife Refuge.
Blackbeard Island National Wildlife Refuge.
Eufaula National Wildlife Refuge.
Harris Neck National Wildlife Refuge.
Okefenokee National Wildlife Refuge.
Piedmont National Wildlife Refuge.
Savannah National Wildlife Refuge.
Tybee National Wildlife Refuge.
Wassaw National Wildlife Refuge.
Wolf Island National Wildlife Refuge.

IDAHO

Bear Lake National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Kootenai National Wildlife Refuge.
Minidoka National Wildlife Refuge.

ILLINOIS

Chautauqua National Wildlife Refuge.
Crab Orchard National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

INDIANA

Muscatatuck National Wildlife Refuge.

IOWA

De Soto National Wildlife Refuge.
Mark Twain National Wildlife Refuge.
Union Slough National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

KANSAS

Flint Hills National Wildlife Refuge.
Kirwin National Wildlife Refuge.
Quivira National Wildlife Refuge.

LOUISIANA

Bogue Chitto National Wildlife Refuge.
Catahoula National Wildlife Refuge.
D'Arbonne National Wildlife Refuge.
Delta National Wildlife Refuge.
Lacassine National Wildlife Refuge.
Sabine National Wildlife Refuge.
Upper Ouachita National Wildlife Refuge.

MAINE

Moosehorn National Wildlife Refuge.

MARYLAND

Blackwater National Wildlife Refuge.
Chincoteague National Wildlife Refuge.

MASSACHUSETTS

Great Meadows National Wildlife Refuge.
Monomoy National Wildlife Refuge.
Parker River National Wildlife Refuge.

MICHIGAN

Seney National Wildlife Refuge.
Shiawassee National Wildlife Refuge.

MINNESOTA

Big Stone National Wildlife Refuge.
Minnesota Valley National Wildlife Refuge.
Rice Lake National Wildlife Refuge.
Sherburne National Wildlife Refuge.
Tamarac National Wildlife Refuge.
Upper Mississippi River Wild Life and Fish Refuge.

MISSISSIPPI

Hillside National Wildlife Refuge.
Mathews Brake National Wildlife Refuge.
Morgan Brake National Wildlife Refuge.
Noxubee National Wildlife Refuge.
Panther Swamp National Wildlife Refuge.
Yazoo National Wildlife Refuge.

MISSOURI

Mark Twain National Wildlife Refuge.
Mingo National Wildlife Refuge.
Squaw Creek National Wildlife Refuge.
Swan Lake National Wildlife Refuge.

MONTANA

Bowdoin National Wildlife Refuge.
Charles M. Russell National Wildlife Refuge.
Lee Metcalf National Wildlife Refuge.
Medicine Lake National Wildlife Refuge.
National Bison Range.
Nine-Pipe National Wildlife Refuge.
Pablo National Wildlife Refuge.
Red Rock Lakes National Wildlife Refuge.
UL Bend National Wildlife Refuge.
Willow Creek National Wildlife Refuge.

NEBRASKA

Crescent Lake National Wildlife Refuge.
De Soto National Wildlife Refuge.
North Platte National Wildlife Refuge.
Valentine National Wildlife Refuge.

NEVADA

Desert National Wildlife Range.
Pahranagat National Wildlife Refuge.
Ruby Lake National Wildlife Refuge.
Stillwater National Wildlife Refuge.
Sheldon National Wildlife Refuge.

NEW JERSEY

Brigantine National Wildlife Refuge.

NEW MEXICO

Bitter Lake National Wildlife Refuge.
Bosque Del Apache National Wildlife Refuge.
Maxwell National Wildlife Refuge.

NEW YORK

Elizabeth Morton National Wildlife Refuge.
Iroquois National Wildlife Refuge.
Montezuma National Wildlife Refuge.
Wertheim National Wildlife Refuge.

NORTH CAROLINA

Alligator River National Wildlife Refuge.
Mackay Island National Wildlife Refuge.
Mattamuskeet National Wildlife Refuge.
Pea Island National Wildlife Refuge.
Pee Dee National Wildlife Refuge.

NORTH DAKOTA

Arrowwood National Wildlife Refuge.
Audubon National Wildlife Refuge.
Des Lacs National Wildlife Refuge.
J. Clark Salyer National Wildlife Refuge.
Lake Ilo National Wildlife Refuge.
Long Lake National Wildlife Refuge.
Tewaukon National Wildlife Refuge.
Upper Souris National Wildlife Refuge.

OKLAHOMA

Salt Plains National Wildlife Refuge.
Sequoyah National Wildlife Refuge.
Tishomingo National Wildlife Refuge.

Washita National Wildlife Refuge.
Wichita Mountains Wildlife Refuge.

OREGON

Ankeny National Wildlife Refuge.
Cold Springs National Wildlife Refuge.
Deer Flat National Wildlife Refuge.
Hart Mountain National Antelope Refuge.
Klamath Forest National Wildlife Refuge.
Malheur National Wildlife Refuge.
McKay Creek National Wildlife Refuge.
Umatilla National Wildlife Refuge. —
Upper Klamath National Wildlife Refuge.
William L. Finley National Wildlife Refuge.

PENNSYLVANIA

Erie National Wildlife Refuge.
Tinicum National Environmental Center

SOUTH CAROLINA

Cape Romain National Wildlife Refuge.
Carolina Sandhills National Wildlife Refuge.
Pinckney Island National Wildlife Refuge.
Santee National Wildlife Refuge.
Savannah National Wildlife Refuge.

SOUTH DAKOTA

Lacreek National Wildlife Refuge.
Pocasse National Wildlife Refuge.
Sand Lake National Wildlife Refuge.
Waubay National Wildlife Refuge.

TENNESSEE

Cross Creeks National Wildlife Refuge.
Hatchie National Wildlife Refuge.
Lake Isom National Wildlife Refuge.
Lower Hatchie National Wildlife Refuge.
Reelfoot National Wildlife Refuge.
Tennesee National Wildlife Refuge.

TEXAS

Anahuac National Wildlife Refuge.
Aransas National Wildlife Refuge.
Brazoria National Wildlife Refuge.
Buffalo Lake National Wildlife Refuge.
Hagerman National Wildlife Refuge.
Laguna Atascosa National Wildlife Refuge.
McFaddin National Wildlife Refuge.
Muleshoe National Wildlife Refuge.
San Bernard National Wildlife Refuge.
Texas Point National Wildlife Refuge.

UTAH

Bear River Migratory Bird Refuge.
Ouray National Wildlife Refuge.

VERMONT

Missisquoi National Wildlife Refuge.

VIRGINIA

Back Bay National Wildlife Refuge.
Chincoteague National Wildlife Refuge.
Great Dismal Swamp National Wildlife Refuge.
Mackay Island National Wildlife Refuge.

WASHINGTON

Columbia National Wildlife Refuge.
Columbian White-tailed Deer National Wildlife Refuge.
Conboy Lake National Wildlife Refuge.
Little Pend Oreille National Wildlife Refuge.
McNary National Wildlife Refuge.
Nisqually National Wildlife Refuge.
Ridgefield National Wildlife Refuge.
Umatilla National Wildlife Refuge.

WISCONSIN

Horicon National Wildlife Refuge.
Necedah National Wildlife Refuge.
Trempealeau National Wildlife Refuge.
Upper Mississippi RiverWild Life and Fish Refuge.

WYOMING

National Elk Refuge.
Pathfinder National Wildlife Refuge.
Seedskadee National Wildlife Refuge.

(Sec. 4, 80 Stat. 927, 16 U.S.C. 668dd)

[31 FR 16031, Dec. 16, 1966]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 33.4, see the List of CFR Sections Affected in the Finding Aids section of this volume.

Subpart B—Refuge-Specific Regulations for Sport Fishing

SOURCE: 50 FR 29976, July 23, 1985, unless otherwise noted.

§ 33.5 Alabama.

(a) *Bon Secour National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted on Gator and Little Gator Lakes.

(b) *Choctaw National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted during daylight hours only.

(c) *Eufaula National Wildlife Refuge.* Fishing, frogging and turtle trapping are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, frogging and turtle trapping are permitted year-round in all refuge waters contiguous with the Walter F. George Reservoir.

(2) Fishing, including bowfishing, is permitted from March 1 through October 31 during daylight hours only in all refuge impoundments and waters other than the Walter F. George Reservoir.

(d) *Wheeler National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Bank fishing is not permitted around the shoreline of the refuge headquarters and in the display pool.

[50 FR 29976, July 23, 1985, as amended at 50 FR 34488, Aug. 26, 1985]

§ 33.6 Alaska. [Reserved]

§ 33.7 Arizona.

(a) *Cibola National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during respective State seasons in the channelized portions of the Colorado River in Zone I, Zone II, and the Old River Channel of the Colorado River.

(2) Fishing is permitted from March 15 through Labor Day in Cibola Lake and the channelized portion of the Colorado River in Zone III.

(b) *Havasu National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Designated portions of Topock Marsh are closed to all entry from October 1 through January 31.

(c) *Imperial National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Designated portions of Martinez Lake and Fergerson Lake are closed to entry from October 1 to March 1.

§ 33.8 Arkansas.

(a) *Big Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only from March 1 through October 31 with the following exceptions: Bank fishing is permitted at any time in the area around Floodway Dam south of the Highway 18 bridge, and fishing during daylight hours only from nonmotorized boats and boats with electric motors is permitted in the Sand Slough—Mud Slough Area from November 1 through the end of February.

(2) The use of limb lines and toxic chemical containers for jug fishing is not permitted.

(3) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(b) *Felsenthal National Wildlife Refuge.* Fishing, frogging and the taking of turtles are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is not permitted in the waterfowl sanctuary area during the waterfowl hunting season with the exception of the main channel of the Ouachita River and the borrow pits along Highway 82.

(2) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(c) *Holla Bend National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through October 31.

(d) *Wapanocca National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 15 through September 30 during daylight hours only.

(2) Only boats with motors 10 horsepower or less are permitted on Wapanocca Lake.

(3) The use of live carp, shad, buffalo, and goldfish for bait is not permitted.

(4) The use of yo-yos, jugs, drops, trotlines and all commercial fishing tackle is not permitted.

(e) *White River National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 31 except as posted and as follows: Fishing is permitted year-round in Jacks Bay, LaGrue Bayou, Moon Lake next to Highway 1, the portion of Indian Bay south of Highway 1, and those borrow ditches located adjacent to the west bank of the portion of the White River Levee north of the Arkansas Power and Light Company powerline right-of-way.

(2) A permit is required for the use of any fishing tackle other than hook and line.

(3) Trotlines must be reset when receding water levels expose them and cannot be left unattended. The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(4) Frogging is permitted from the beginning of the State season through October 31. The use of bow and arrow for taking bullfrogs is not permitted.

§ 33.9 California.

(a) *Antioch Dunes National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Vehicle access is limited to designated parking areas and foot access is limited to designated trails and fishing areas.

(2) Fishing is permitted year-round from one hour before sunrise to one hour after sunset.

(b) *Cibola National Wildlife Refuge.* (Refer to regulations for Arizona, Cibola NWR in § 33.7.)

(c) *Colusa National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing and frogging are permitted from February 1 through October 15.

(d) *Delevan National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing and frogging are permitted from February 1 through October 15.

(e) *Havasu National Wildlife Refuge.* (Refer to regulations for Arizona, Havasu NWR in § 33.7.)

(f) *Imperial National Wildlife Refuge.* (Refer to regulations for Arizona, Imperial NWR in § 33.7.)

(g) *Modoc National Wildlife Refuge.* Fishing is permitted only on Dorris Reservoir subject to the following condition: Fishing is not permitted during the migratory waterfowl hunting season.

(h) *Sacramento National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following condition: Fishing and frogging are permitted from February 1 through October 15.

(i) *Salton Sea National Wildlife Refuge.* Fishing is permitted only on that portion of the refuge inundated by the Salton Sea subject to the following condition: Only boat fishing is permitted.

(j) *San Francisco Bay National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing from designated shoreline trail fishing areas and from the Dumbarton and Ravenswood Piers is permitted during the hours posted at the piers and refuge headquarters.

(2) Fishing and all other public entry is not permitted in the entire Mowry Slough from March 15 through June 15.

(3) The upper reaches of Mallard Slough are closed to fishing and all other public entry from March 1 through August 31.

(k) *San Luis National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only from one-half hour before sunrise to one-half hour after sunset.

(2) The use of boats is not permitted.

§ 33.10 Colorado. [Reserved]

§ 33.11 Connecticut. [Reserved]

§ 33.12 Delaware. [Reserved]

§ 33.13 Florida.

(a) *Cedar Keys National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

BEST COPY

(1) Fishing is permitted during daylight hours only.

(2) Fishing is permitted year-round, from refuge beaches only.

(b) *Egmont Key National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Fishing is permitted year-round, from refuge beaches only.

(c) *Hobe Sound National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted year-round, during daylight hours only.

(d) *J. N. "Ding" Darling National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in refuge waters except in the Mangrove Head Pond, Tower Pond, and Tarpon Bay Slough at the Bailey Tract.

(2) Crabbing is permitted with the use of dip nets only; lines, traps, and bait are not permitted.

(e) *Lake Woodruff National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) The use of snatch hooks is not permitted in refuge impoundments.

(3) The use of airboats is not permitted.

(f) *Lower Suwannee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Bank fishing is permitted into interior refuge creeks, borrow pits, and canals from March 15 to September 30 only.

(g) *Loxahatchee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours on all areas of the refuge except the management impoundments and those areas marked by sign as closed to public entry or to fishing.

(2) Only the use of rods and reels or poles and lines is permitted and this fishing equipment must be attended at all times.

(3) Commercial fishing and the taking of frogs or turtles is not permitted.

(4) The possession or use of trotlines, gigs or other fishing devices not described above is not permitted.

(h) *Merritt Island National Wildlife Refuge.* Fishing, crabbing, clamming, oystering and shrimping are permitted on designated areas of the refuge subject to the following conditions:

(1) A permit is required for night fishing.

(2) The daily limit for the Kennedy Athletic Recreational Site (K.A.R.S.) Marina in the Banana River and the Eddy Creek "trout hole" in Mosquito Lagoon is 20 fish during the period from November 15 through March 31.

(3) Fishing lines must be attended at all times.

(i) *Pelican Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Bank fishing from spoil islands is permitted, during daylight hours only.

(j) *Pinellas National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is only permitted from boats, into the waters surrounding Tarpon Key.

(k) *St. Marks National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) The use of boats with motors of 10 horsepower or less is permitted on the St. Marks Unit only from March 15 through October 15.

(l) *St. Vincent National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of live minnows as bait is not permitted.

[50 FR 29976, July 23, 1985, as amended at 50 FR 34488, Aug. 26, 1985]

§ 33.14 Georgia.

(a) *Blackbeard Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Freshwater fishing is permitted from March 15 through October 25 from sunrise until one-half hour after sunset.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of live minnows as bait is not permitted.

(4) Boats may not be left on the refuge overnight.

(b) *Eufaula National Wildlife Refuge.* (Refer to regulations for Alabama, Eufaula NWR in § 33.5.)

(c) *Harris Neck National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round, except during refuge hunts.

(2) Bank fishing into estuarine waters is permitted, during daylight hours only.

(d) *Okefenokee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of boats with motors larger than 10 horsepower is not permitted.

(2) The use of live minnows as bait is not permitted.

(3) Only the use of pole and line or rod and reel is permitted.

(e) *Piedmont National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from May 1 through September 30 during daylight hours only.

(2) The creel limit for black bass is five.

(3) Only the use of pole and line or rod and reel is permitted.

(4) The use of live minnows as bait is not permitted.

(5) Nonmotorized boats and boats with electric motors are permitted only in Pond 2A and Allison Lake.

(f) *Savannah National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on refuge impoundments from March 1 through October 25.

(2) Fishing is permitted from boats into tidal creeks from February 1 through October 25.

(3) Fishing is permitted from sunrise until one-half hour after sunset.

(4) Only nonmotorized boats and boats with electric motors are permitted on impounded waters.

(5) Boats may not be left on the refuge overnight.

(g) *Wassaw National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round except during refuge hunts.

(2) Bank fishing into estuarine waters is permitted, during daylight hours only.

(h) *Wolf Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Fishing from boats is only permitted on Beacon and Wolf Creeks.

(3) Bank fishing into estuarine waters is permitted, during daylight hours only.

[50 FR 29976, July 23, 1985, as amended at 50 FR 34488, Aug. 26, 1985]

§ 33.15 Hawaii. [Reserved]

§ 33.16 Idaho.

(a) *Bear Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Boats are not permitted in fishing areas.

(b) *Deer Flat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) During the waterfowl hunting season, fishing is permitted only within the area bounded by the water's edge extending to a point 200 yards lakeward in fishing Areas A and B on the Lake Lowell Sector.

(2) Nonmotorized boats are permitted throughout the year except during the waterfowl hunting season when they are restricted to that area within the area bounded by the water's edge extending to a point 200 yards lakeward in fishing Areas A and B on the Lake Lowell Sector.

(3) Motorized and nonmotorized boats are permitted from one-half hour before sunrise to one-half hour after sunset from April 15 through September 30.

(4) Shoreline fishing is not permitted on the islands of the Snake River Sector from February 1 through May 31.

(c) *Kootenai National Wildlife Refuge.* Fishing is permitted only on Myrtle Creek subject to the following condition: Only bank fishing and nonmotorized boats are permitted.

§ 33.17 Illinois.

(a) *Chautauqua National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) All refuge waters are open to fishing from December 15 through October 15 during daylight hours. From October 16 through December 14 during daylight hours, fishing is permitted in the posted area that extends one-eighth of a mile around the recreation area, along Goofy Ridge Ditch, along the cross dike, and in all waters within the Public Hunting Area.

(2) Bank fishing is permitted only along the cross dike, at the Recreation Area and at Boatyard No. 3, as posted.

(3) The use of boats with motors of 10 horsepower or less is permitted on the waters of Lake Chautauqua.

(4) Private boats must be removed from refuge waters overnight or moored at either Boatyard No. 3 or the Recreation Area.

(b) *Crab Orchard National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Areas I and III are open to fishing year-round. Within these areas, specifically Devils Kitchen Lake and Little Grassy Lake, the use of boats with motors larger than 10 horsepower is not permitted. Floating trotlines and jug fishing are not permitted during daylight hours in the area west of the closed portion boundary line in Crab Orchard Lake (Zone 1) from Memorial Day through Labor Day.

(2) In Area II: Bank fishing is permitted from Wolf Creek Road and Highway 148 causeways during daylight hours; sport and jug fishing are permitted from Wolf Creek Road causeway west to the closed portion boundary line (Crab Orchard Lake Zone 2); sport and jug fishing are permitted from Wolf Creek Road causeway east (Crab Orchard Lake Zone 3) from March 15 through September 30 during daylight hours only; and bank fishing is permitted during daylight hours in the A-41 pond from March 15 through September 30.

(3) The minimum size limit for largemouth black bass taken from Crab Orchard Lake is 14 inches.

(c) *Mark Twain National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in the Big Timber Division at all times.

(2) Fishing is permitted in the Louisa Division from February 1 until the start of the Iowa waterfowl hunting season with the exception of certain designated areas adjacent to the Port Louisa Road that are open through December 31.

(3) Fishing is permitted in the Upper, Middle and Lower Pools of the Batchtown Division, Calhoun County, Illinois, from December 15 through October 15.

(4) Fishing is permitted in the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, from December 15 through October 15. Fishing is permitted in the upper section of Swan Lake (man-made ditch at Six Mile Island to the northern refuge boundary) at all times.

(5) Fishing is permitted in the Keithsburg Division from January 1 until the start of the Illinois waterfowl hunting season. Bank fishing at the Spring Slough access is permitted year-round.

(6) Fishing is permitted year-round on the Bear Creek Unit of the Gardner Division. On the remainder of the Gardner Division, fishing is permitted

from February 1 through September 30.

(7) The Clarence Cannon and Delair Divisions of the refuge are closed to fishing.

(8) Fishing is permitted in the Gilbert Lake Division from January 1 through October 15 and December 15 through December 31.

(d) *Upper Mississippi River Wild Life and Fish Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions: Fishing on the Spring Lake Closed Area, Carroll County, Illinois, is not permitted from October 1 through the last day of the Illinois waterfowl season.

§ 33.18 Indiana.

(a) *Muscatatuck National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on Stanfield Lake from designated bank areas and from nonmotorized boats from May 15 through October 15 and when ice conditions permit ice fishing.

(2) Only fishing with rod and reel or pole and line is permitted.

(3) Ice fishing is permitted when ice conditions are safe.

(4) The minimum size limit for largemouth black bass taken from refuge waters is 14 inches.

(5) Fishing is permitted during daylight hours only.

§ 33.19 Iowa.

(a) *De Soto National Wildlife Refuge.* Fishing is permitted in De Soto Lake subject to the following conditions:

(1) Ice fishing is permitted from January 1 through the end of February when conditions are safe.

(2) Motor- or wind-driven conveyances are not permitted on the lake from January 1 through the end of February.

(3) The use of portable ice fishing shelters is permitted on a daily basis from January 1 through the end of February.

(4) Only the use of pole and line or rod and reel is permitted from April 15 through September 30 with the exception that archery and spear fishing are permitted only for nongame fish from April 15 to September 30.

(5) Fishing with more than two lines or with more than two hooks on each line is not permitted.

(6) The use of trotlines and float lines is not permitted.

(7) Digging or seining for bait or taking frogs is not permitted.

(8) Minimum length limits are required as posted.

(b) *Mark Twain National Wildlife Refuge.* (Refer to regulations for Illinois, Mark Twain NWR in § 33.17.)

(c) *Union Slough National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through September 30.

(2) The use of boats, canoes or other floating devices is not permitted.

(d) *Upper Mississippi Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi Wild Life and Fish Refuge in § 33.17.)

§ 33.20 Kansas. [Reserved]

§ 33.21 Kentucky. [Reserved]

§ 33.22 Louisiana.

(a) *Bogue Chitto National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

(b) *Catahoula National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in Cowpen Bayou year-round during daylight hours only.

(2) Fishing is permitted in the Duck Lake Impoundment from March 1 through October 31 during daylight hours only.

(3) Only nonmotorized boats and boats with electric motors are permitted in Cowpen Bayou.

(4) Only nonmotorized boats and boats with motors of 10 horsepower or less are permitted in the Duck Lake

Impoundment and adjacent waters. Boat launching is permitted from designated boat ramps only.

(5) Only the use of pole and line or rod and reel is permitted.

(c) *D'Arbonne National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

(d) *Delta National Wildlife Refuge.* Fishing, shrimping and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, shrimping and crabbing are permitted only during daylight hours.

(2) Only shrimping trawls of 16 feet or less are permitted.

(e) *Lacassine National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 15 during daylight hours only.

(2) Only boats with motors totaling 25 horsepower or less are permitted in Lacassine Pool.

(f) *Sabine National Wildlife Refuge.* Fishing, crabbing, crayfishing, and shrimp cast netting are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing, crabbing and shrimp cast netting are permitted year-round from the bank of the Highway 27 canal road during daylight hours only.

(2) Fishing, crabbing and shrimp cast netting are permitted during daylight hours only in the Grand and Lambert Bayous of East Cove except during the State waterfowl hunting seasons.

(3) Fishing, crabbing, crayfishing, and shrimp cast netting are permitted in refuge waters, other than those noted above, from March 1 through October 15 during daylight hours only.

(4) The crabbing, crayfishing, and shrimp cast netting creel limit is 96 quarts or 100 pounds of crab, crayfish, and/or shrimp per vehicle. Users must leave the area after they have reached their limit.

(5) Boats with motors totaling 25 horsepower or less are permitted on refuge impoundments. Boating access into open marsh and ponds is restricted to paddling or push-poling the boat. There are no horsepower restrictions for boats using refuge canals, bayous or lakes.

(g) *Upper Ouachita National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The ends of trotlines must consist of a length of cotton line that extends from the points of attachment into the water.

(2) Only cotton limb lines are permitted.

§ 33.23 Maine.

(a) *Moosehorn National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) The use of nonmotorized boats only is permitted on Bearce, Conic, and Cranberry Lakes.

(2) Fishing is permitted during daylight hours only.

§ 33.24 Maryland.

(a) *Blackwater National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and crabbing are permitted from April 1 through October 1 during daylight hours only.

(2) All fish and crab lines must be attended.

(3) Boat launching from refuge lands is not permitted.

(4) The use of airboats is not permitted on refuge waters.

§ 33.25 Massachusetts.

(a) *Great Meadows National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted along the Concord River, Sudbury River, Heard Pond, and ponds in the West Bedford Area during daylight hours only.

(2) Only foot access is permitted.

(b) *Monomoy National Wildlife Refuge.* Fishing is permitted in designated areas of the refuge subject to the following condition: Anglers must be actively fishing between sunset and sunrise.

(c) *Parker River National Wildlife Refuge.* Saltwater fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Saltwater fishing is permitted on the ocean beach only.

(2) A permit is required for night fishing and for the use of over-the-sand surf-fishing vehicles.

§ 33.26 Michigan.

(a) *Seney National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) *Ice fishing.* (i) Fishing is permitted from January 1 through the end of February during daylight hours only.

(ii) Ice shanties, houses or shelters are not permitted on F Pool.

(iii) Snowmobiles or all-terrain vehicles are not permitted.

(2) *Summer fishing.* (i) Fishing is permitted from July 1 through September 30 during daylight hours only.

(ii) Fishing is permitted on the Show Pools from Memorial Day through September 30.

(iii) Fishing is permitted on the Creighton, Driggs and Manistique Rivers, Walsh Creek west of the Walsh Ditch and the Walsh Ditch south to its entry into the C-3 Pool.

(iv) Only bank fishing is permitted in refuge pools.

(v) Access to the Driggs and Creighton Rivers, Walsh Creek and Walsh Ditch is limited to canoes without motors and to foot traffic along these watercourses.

§ 33.27 Minnesota.

(a) *Big Stone National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing from nonmotorized boats is permitted only on the Minnesota River Channel Canoe Trail as designated by signs.

(2) Bank fishing only is permitted on refuge pools and open marshes.

(3) Ice fishing shelters must be removed from the refuge following each day's fishing activities.

(b) *Minnesota Valley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Only bank fishing is permitted.

(c) *Rice Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from May 1 through November 30.

(2) Fishing from nonmotorized boats is permitted only in designated areas.

(d) *Sherburne National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on the St. Francis River only.

(2) Nonmotorized boats are permitted only on designated areas of St. Francis River and must be launched from designated access points.

(e) *Tamarac National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in North Tamarac Lake and Pine Lake during the State fishing season.

(2) Fishing is permitted in Two Island, Wauboose, Lost and Blackbird Lakes from the first day of the State fishing season through Labor Day.

(3) Bank fishing is permitted only in an area 50 yards on either side of the Ottertail River Bridges on County Roads No. 26 and No. 126.

(f) *Upper Mississippi Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi Wild Life and Fish Refuge in § 33.17.)

§ 33.28 Mississippi.

(a) *Hillside National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on all refuge waters year-round except for any borrow pond along the Corps of Engineers Hillside flood control levee that is designated as closed by signs.

(2) Frogging is permitted on all refuge waters during the State bullfrog season.

(3) Trotlines are not permitted in borrow ponds.

(4) Commercial fishing is not permitted.

(b) *Noxubee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through October 31.

§ 33.29 Missouri

(a) *Mark Twain National Wildlife Refuge.* (Refer to regulations for Illinois, Mark Twain NWR in § 33.17.)

(b) *Mingo National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours year-round in all waters west of Ditch 6 and in all other refuge waters from March 15 through September 30. Fishing in May Pond and Fox Pond is permitted in accordance with posted regulations.

(2) Only nonmotorized boats are permitted.

(3) Nongame fish may be taken for personal use by nets and seines. All nets must be plainly labeled with the name and address of the user. Trammel and gill nets must be attended at all times. (All other nets may be left set and unattended but not for more than 24 hours.) Game fish may not be possessed by persons using nets or seines on the refuge.

(c) *Squaw Creek National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fish, amphibians, reptiles and crustaceans may only be taken with hand-held pole and line or rod and reel.

(d) *Swan Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through October 15 during daylight hours only.

(2) Only nonotorized boats are permitted on refuge waters with the exception that the use of motors of 10 horsepower or less is permitted on Silver Lake.

§ 33.30 Montana.

(a) *Red Rock Lakes National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from the third week of June through the end of the general State fishing season.

§ 33.31 Nebraska.

(a) *De Soto National Wildlife Refuge.* (Refer to regulations for Iowa, De Soto NWR in § 33.19.)

§ 33.32 Nevada.

(a) *Pahranagat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round in Upper Pahranagat Lake, North Marsh, Middle Pond, and Lower Lake.

(2) Only nonmotorized boats and boats with electric motors are permitted on Upper Pahranagat Lake, Middle Pond, and Lower Lake year-round.

(3) Boats are not permitted on North Marsh.

(b) *Ruby Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from one hour before sunrise until two hours after sunset.

(2) Only bank fishing is permitted in the areas north of Brown Dike and east of the Collection Ditch with the exception that fishing by wading and from personal flotation devices is permitted in Unit 21 and portions of Unit 10.

(3) Only artificial lures may be used in the Collection Ditch and the associated springs that are open to fishing.

§ 33.33 New Hampshire. [Reserved]

§ 33.34 New Jersey.

(a) *Edwin B. Forsythe National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Saltwater fishing is permitted from the beach on Holgate Peninsula and Little Beach Island with the exception of those areas posted as closed.

(2) Fishing is permitted along the South Dike of the William Vogt Pool from July 20 through September 21 during daylight hours.

(3) South Dike anglers may park at the headquarters and south town parking areas only.

§ 33.35 New Mexico.

(a) *Bitter Lake National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 1 through October 15.

(2) Fishing is permitted only in Pools 5, 6, 7, 15, and 16.

(3) Fishing is permitted from one hour before sunrise until one hour after sunset.

(4) The use of boats is not permitted.

(b) *Bosque del Apache National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from the Saturday of Memorial Day weekend through September 30.

(2) Fishing is permitted from one-half hour before sunrise until one-half hour after sunset.

(3) Frogging and the use of trotlines, spears, bows and arrows, boats and other flotation devices are not permitted.

(c) *Maxwell National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from the last Saturday in February through the Sunday nearest October 16.

(2) Boats are permitted only on Lake 13 and Lake 14 and only during the fishing season.

(3) Fishing is not permitted within 150 feet of headgates.

§ 33.36 New York.

(a) *Elizabeth A. Morton National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only on the beach and in areas not designated as closed.

(2) Fishing is permitted only during daylight hours.

(b) *Iroquois National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Fishing is permitted from July 15 through September 30 and from December 1 through the end of February with the exception that fishing is permitted at all times in Feeder Canal and Oak Orchard Creek.

(3) Ice fishing is permitted on Ringneck, Schoolhouse and Center Marshes only from December 15 through the last day of February when conditions are safe.

(4) The use of boats or other flotation devices is not permitted with the exception that nonmotorized boats may be used on Oak Orchard Creek from Knowlesville Road to the cable across the creek approximately two miles downstream.

(5) Boats, structures or other equipment must be removed from the refuge after the completion of the day's fishing activities.

(c) *Wertheim National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Shore and boat fishing is permitted on that portion of the Carmans River between Sunrise and Montauk Highways.

(2) Only boat fishing is permitted from Montauk Highway south to the mouth of the Carmans River.

(3) Fishing is permitted only during daylight hours.

(4) Spearfishing and taking of baitfish and frogs is not permitted.

§ 33.37 North Carolina.

(a) *MacKay Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only from March 15 through October 15 with the exception that bank fishing is permitted in

Corey's Ditch and the canal adjacent to the Knotts Island Causeway year-round.

(2) All fishing lines must be attended.

(3) Airboats are not permitted.

(b) *Mattamuskeet National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and crabbing are permitted from March 1 through November 1 from one-half hour before sunrise to one-half hour after sunset.

(2) Bank fishing and crabbing are permitted year-round along the Highway 94 Causeway and in the immediate vicinity of the Lake Landing water control structure, the Outfall Canal water control structure, and Central Canal Bridge.

(3) Herring (alewife) dipping is permitted from the canal banks and water control structures in the immediate vicinity of Waupoppin Canal, Outfall Canal and Lake Landing Canal from March 1 through May 15 from one-half hour before sunrise until 10:00 p.m.

(4) All crabbing equipment must be attended.

(5) Airboats are not permitted.

(c) *Pee Dee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 1 through October 15.

(2) Fishing is permitted only during daylight hours.

(3) Only nonmotorized boats and boats with electric motors are permitted on Arrowhead Lake and Andrews Pond.

(4) Only the use of pole and line or rod and reel is permitted.

(5) The use of live minnows as bait is not permitted.

§ 33.38 North Dakota. [Reserved]

§ 33.39 Ohio. [Reserved]

§ 33.40 Oklahoma.

(a) *Salt Plains National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) The northern portion of Great Salt Plains Reservoir is closed.

(2) Fishing is permitted from April 15 through October 15.

(3) The use of firearms for taking frogs is not permitted.

(4) Trotlines must be attended daily and removed when fishing is completed.

(5) Trotlines are not permitted within 500 feet of the shoreline of the Jet Recreation Area.

(6) Posts used to secure or anchor trotlines must reach a minimum of two feet above the water surface and must be marked so that they are clearly visible to boaters.

(7) The use of any metallic posts or stakes to secure or anchor trotlines is not permitted.

(8) Taking any type of bait from refuge lands or waters is not permitted.

(b) *Sequoyah National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are not permitted in the posted area located south of Vian Creek to Tuff Ramp and north along the western shore of Sally Jones Lake to the mouth of Horton Slough from January 1 through February 15 and October 1 through December 31.

(2) Fishing and frogging are not permitted in the Sandtown Bottom area from one hour after sunset to 4:00 a.m.

(3) The use of firearms for taking frogs is not permitted.

(c) *Tishomingo National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted on all refuge waters from March 1 through September 30 except as noted below in (3).

(2) Bank fishing and frogging are permitted in the immediate area of the refuge headquarters boat launching ramp, Goose Pen Pond, Dick's Pond, Big Sandy Creek, Bell Creek and Rock Creek from October 1 through the last day of February.

(3) All refuge waters are closed to fishing during the special fall deer hunts.

(4) The use of trotlines, juglines, throwlines and other set tackle is permitted only in Cumberland Pool of Lake Texoma and the Washita River from March 1 through September 30, and set tackle must be removed from these waters by October 1.

(5) The use of firearms for taking frogs is not permitted.

(d) *Washita National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted from March 15 through October 14 with the exception that the eastern shore of Foss Reservoir from the Lakeview Recreation Area to the Pitts Creek Recreation Area and the eastern bank of Pitts Creek are open to bank fishing and frogging year-round.

(2) Access to fishing and frogging is permitted only from the McClure, Riverside, Owl Cove, Pitts Creek and Lakeview Recreation Areas and by boat from Foss Reservoir.

(3) Boats and other flotation devices are not permitted on refuge waters from October 15 through March 14.

(4) Trotlines must be attended daily and must be removed when fishing is completed.

(5) Taking any type of bait from refuge lands and waters is not permitted.

(6) The use of firearms for taking frogs is not permitted.

(e) *Wichita Mountains Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fish may be taken only with pole and line or rod and reel except that in Elmer Thomas Lake only, nongame fish may be taken with any technique permitted by State regulations.

(2) Taking any type of bait from refuge lands or waters is not permitted.

(3) Taking of frogs and turtles is not permitted.

§ 33.41 Oregon.

(a) *Cold Springs National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30.

(2) Bank fishing only is permitted from October 1 through the last day of February.

(3) Only nonmotorized boats and boats with electric motors are permitted.

(b) *Deer Flat National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Shoreline fishing is not permitted on the islands of the Snake River Sector from February 1 through May 31.

(c) *Hart Mountain National Antelope Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted only in Rock Creek, Guano Creek, and Warner Pond.

(d) *Klamath Forest National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Bank fishing is permitted in the borrow ditches adjacent to the Silver Lake Highway and along the shoreline of Wocus Bay.

(2) The use of boats is not permitted.

(e) *Malheur National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during the State trout season.

(2) Boats are not permitted with the exception that nonmotorized boats are permitted on Krumbo Reservoir.

(f) *McKay Creek National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted from March 1 through September 30.

(g) *Umatilla National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on refuge impoundments and ponds from May 16 through September 30. Other refuge waters (Columbia River and its backwaters) are open in accordance with State regulations.

(2) Only nonmotorized boats and boats with electric motors are permit-

ted on refuge impoundments and ponds.

(h) *Upper Klamath National Wildife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in Pelican Bay, Recreation Creek, Crystal Creek, Odessa Creek, Thomas Creek, Pelican Cut and that portion of Upper Klamath Lake located on the east side of the refuge.

(2) Motorized boats shall not exceed 10 miles per hour in any stream, creek or canal and on that portion of Pelican Bay west of a line beginning at designated points on the north shore of Pelican Bay one-fourth mile east of Crystal Creek and extending due south to the opposite shore of the lake.

(i) *William L. Finley National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on Muddy Creek from the beginning of the State trout season in April through October 31.

(2) The use of boats is not permitted.

§ 33.42 Pennsylvania.

(a) *Erie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours.

(2) Boats without motors are permitted 3,000 feet (to the buoyline) above the Pool 9 dike from the second Saturday in June through September 15.

(3) Ice fishing is permitted on Pools K and 9 when conditions are safe.

(4) Only minnows may be taken as bait from refuge lands and waters and a special use permit is required for taking minnows.

(5) A permit is required to take turtles.

(6) The taking of frogs is not permitted.

(b) *Tinicum National Environmental Center.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only during daylight hours in non-state-controlled areas.

(2) Boats are not permitted.

(3) Bow fishing is not permitted.

(4) A permit is required to take turtles.

(5) The taking of frogs is not permitted.

§ 33.43 Rhode Island. [Reserved]

§ 33.44 South Carolina.

(a) *Cape Romain National Wildife Refuge.* Fishing, crabbing, and shell fishing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30 during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) The use of cast nets from Moores Landing Pier is not permitted.

(b) *Carolina Sandhills National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 1 through September 30 with the exception that fishing is permitted year-round in Lake Bee, Lynches River and the Black Creek Bridge Areas on State Road 33, State Road 145, Highway 1 and Wire Road.

(2) Fishing is permitted only during daylight hours.

(3) Only bank fishing is permitted with the exception that nonmotorized boats and boats with electric motors are permitted in Martins Lake, Lake Bee, Lake 16, Lake 17 and May's Lake.

(4) Fish baskets, nets, set hooks and trotlines are not permitted.

(c) *Pinckney Island National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted year-round.

(2) Fishing is only permitted from boats, into the estuarine waters adjacent to the refuge.

(d) *Santee National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on inland ponds only during daylight hours except as posted.

(2) Fishing is permitted in Cantey Bay, Black Bottom, Savannah Branch and refuge ponds and impoundments from March 1 through September 30.

(e) *Savannah National Wildlife Refuge.* (Refer to regulations for Georgia, Savannah NWR in § 33.14.)

[50 FR 29976, July 23, 1985, as amended at 50 FR 34489, Aug. 26, 1985]

§ 33.45 South Dakota. [Reserved]

§ 33.46 Tennessee.

(a) *Cross Creeks National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted in refuge pools and reservoirs from March 1 through October 31 during daylight hours only.

(2) Boat fishing is permitted at any time on Lake Barkley waters.

(3) Trotlines, limb lines, jugs and slat baskets are not permitted in refuge pools and reservoirs.

(4) Taking of frogs is not permitted.

(5) Boats are restricted to "slow speed/minimum wake" on all refuge pools.

(b) *Hatchie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted during daylight hours only.

(2) Only nonmotorized boats and boats with electric motors are permitted.

(3) Fishing is permitted only with pole and line or rod and reel.

(c) *Lake Isom National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from March 15 through October 15 during daylight hours only.

(2) Only boats with motors of 10 horsepower or less are permitted.

(d) *Lower Hatchie National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted with pole and line or rod and reel only.

(e) *Reelfoot National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted on the Long Point Unit (north of Upper Blue Basin) from March 15 through October 15 and on the Grassy Island Unit (south of the Upper Blue Basin) from the day following the closing day of the winter waterfowl hunting season through the day preceding the opening day of the fall waterfowl hunting season.

(2) Fishing is permitted only during daylight hours.

(3) Only boats with motors of 10 horsepower or less are permitted.

§ 33.47 Texas.

(a) *Anahuac National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Boats and other flotation devices are not permitted on inland waters. Boats may be launched from the refuge into East Bay.

(2) Fishing is permitted only with pole and line, rod and reel or handheld line.

(3) The use of trotlines, setlines, bows and arrows, gigs, or spears is not permitted in inland waters.

(b) *Aransas National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through October 15 from sunrise to sunset.

(2) Boat launching from refuge lands is not permitted.

(3) Access by foot to bays is permitted only at designated entry points.

(c) *Brazoria National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted only in Nick's Lake, Salt Lake, and Lost Lake.

(d) *Hagerman National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are permitted from April 1 through September 30.

(2) Frogs may be taken only by dip net, hands, gigs, or hook and line.

(3) Trotlines must be attended daily and removed when fishing is completed.

(4) Fishing is not permitted from bridges and roadways.

(e) *Laguna Atascosa National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is only permitted by pole and line, rod and reel, or hand-held line. Bait may be taken with cast nets.

(2) Crabs may be taken only with dip net, setline, hand-held line, gig or crab trap.

(f) *McFaddin National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing in inland waters is permitted only with pole and line, rod and reel, or hand-held line.

(2) The use of trotlines, setlines, bows and arrows, gigs, or spears is not permitted in inland waters.

(g) *San Bernard National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted on the refuge portions of Cowtrap Lake and Cedar Lake only.

(h) *Texas Point National Wildlife Refuge.* Fishing and crabbing are permitted on designated areas of the refuge subject to the following condition: Fishing in inland waters is permitted only with pole and line, rod and reel, or hand-held line.

§ 33.48 Utah. [Reserved]

§ 33.49 Vermont.

(a) *Missisquoi National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following condition: Fishing is permitted only from refuge lands along Lake Champlain and the Missisquoi River.

§ 33.50 Virginia.

(a) *Back Bay National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing access from refuge headquarters is permitted only by foot, bicycle, and hand-launched boat.

(2) Launching trailered boats in the refuge headquarters area is not permitted.

(b) *Chincoteague National Wildlife Refuge.* Fishing, crabbing and clamming are permitted on designated areas of the refuge subject to the following conditions:

(1) Sport fishing, crabbing and clamming are permitted in salt water areas and in that portion of Swan Cove adjacent to Beach Road. All other refuge ponds, impoundments and channels are closed to these activities.

(2) Traps and crab pots must be attended.

(3) A permit is required to remain on the refuge after normal closing hours.

(c) *Great Dismal Swamp National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Boat fishing is permitted in Lake Drummond and in the Feeder Ditch on the east side of the lake during daylight hours only.

(2) Bank fishing is not permitted.

(3) All fishing lines must be attended.

(4) A permit is required for vehicular access to the boat ramp on Interior Ditch Road on the west side of Lake Drummond from April 1 through June 15.

§ 33.51 Washington.

(a) *Columbia National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Only nonmotorized boats are permitted on the chain of lakes extending from Soda Lake through Upper Hampton and on Crab Creek and its impoundments.

(2) Motorized boats are permitted on all other refuge waters open to fishing.

(b) *McNary National Wildlife Refuge.* Fishing is permitted on designated areas of the McNary, Hanford Islands and Strawberry Island Divisions of the refuge subject to the following conditions:

(1) Fishing is permitted on the Hanford Islands and Strawberry Island Divisions from August 1 through September 30.

(2) Fishing is not permitted on the McNary Division during the migratory waterfowl hunting season.

(3) The use of boats and other flotation devices is not permitted on the McNary Division.

(c) *Ridgefield National Wildlife Refuge.* Fishing and frogging are permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing and frogging are only permitted from March 1 through September 30.

(2) Fishing and frogging are only permitted during daylight hours.

(d) *Umatilla National Wildlife Refuge.* (Refer to regulations for Oregon, Umatilla NWR in § 33.41.)

§ 33.52 West Virginia. [Reserved]

§ 33.53 Wisconsin.

(a) *Horicon National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted from April 15 through September 15.

(2) Only bank fishing is permitted.

(b) *Necedah National Wildlife Refuge.* Fishing is permitted on designated areas of the refuge subject to the following conditions:

(1) Fishing is permitted only in Sprague and Goose Pools including their outlets as far south as Sprague-Mather Road.

(2) Fishing is permitted from December 15 through March 15 and from June 1 through September 15.

(3) Nonmotorized boats are permitted.

(c) *Upper Mississippi River Wild Life and Fish Refuge.* (Refer to regulations for Illinois, Upper Mississippi River Wild Life and Fish Refuge in § 33.17.)

§ 33.54 Wyoming. [Reserved]

PART 34—REFUGE REVENUE SHARING WITH COUNTIES

Sec.

34.1 Purpose.
34.2 Authority.
34.3 Definitions.
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34.5 Distribution of revenues.
34.6 Schedule of appraisals.
34.7 Fair market value appraisals.
34.8 Appropriations authorized.
34.9 Protests.

AUTHORITY: 16 U.S.C. 715s, as amended.

SOURCE: 44 FR 33073, June 8, 1979, unless otherwise noted.

§ 34.1 Purpose.

The purpose of the regulations contained in this part is to prescribe the procedures for making payments in lieu of taxes to counties for areas administered by the Secretary through the U.S. Fish and Wildlife Service in accordance with the Revenue Sharing Act.

§ 34.2 Authority.

(a) The Act of October 17, 1978, Pub. L. 95-469, amended the Act of June 15, 1935, as amended by the Act of August 30, 1964 (78 Stat. 701; 16 U.S.C. 715s), by revising the formula and extending the revenue sharing provisions to all fee and reserve areas that are administered solely or primarily by the Secretary through the U.S. Fish and Wildlife Service. Payments under this Act may be used for any governmental purpose.

(b) Pursuant to Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. 2000d), and the regulations issued pursuant thereto, which are contained in 43 CFR Part 17, counties must file an assurance with the Department, comply with the terms of the assurances, and comply with regulations contained in 43 CFR Part 17 in order to continue to receive this Federal financial assistance.

§ 34.3 Definitions.

(a) The term "fee area" means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(b) The term "reserve area" means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service. For the purpose of these regulations, reserve areas also include lands in Hawaii, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands, which were initially administered by the United States through Act of Congress, Executive Order, Public Land Order or Proclamation of the President and administered, either solely or primarily, by the Secretary through the Service.

(c) The term "county" means any county, parish, organized or unorganized borough, township or municipality, or other unit of local government that is the primary collector for general purpose real property taxes where fee areas and/or reserve areas are located. For the purpose of sharing revenues, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(d) The term "fund" means the revenues received by the Service from (1) the sale or disposition of animals, salmonoid carcasses and eggs, products of the soil (including, but not limited to, timber, hay, and grass), minerals, shells, sand, and gravel; (2) leases for public accommodations or facilities incidental to, but not in conflict with, the basic purpose of such areas; and (3) other privileges, including industrial leases at Crab Orchard National Wildlife Refuge, Illinois, as authorized by Section 8 of Pub. L. 95-616, approved October 27, 1978. The Service may pay from such fund any necessary expenses incurred in connection with the revenue producing and revenue sharing activity. The fund shall also include any appropriations authorized by the Act to make up any difference between the total amount of receipts after payments of expenses and the total amount of payments due the counties.

(e) The term "net receipts" means the amount of revenue collected by the Service from an area (including fee land and/or reserve land) after the deduction of necessary expenses incurred in producing the particular revenues.

(f) The term "fair market value" means the amount in terms of money for which in all probability a property would be sold if exposed for sale in the open market by a seller who is willing but not obligated to sell, allowing a reasonable time to find a buyer who is willing but not obligated to buy, both parties having full knowledge of all the uses to which the property is adapted, and for which it is capable of being used.

§ 34.4 Eligibility of areas.

In order to receive payments under the Act, a county must qualify under the definition in § 34.3(c) of this part and there must be located within the county, areas of land owned in fee title by the United States and administered by the Secretary of the Interior through the Fish and Wildlife Service, including wildlife refuges, waterfowl production areas, wildlife ranges, wildlife management areas, fish hatcheries, research centers or stations, and administrative sites, and these areas must be solely or primarily administered by the Service. In addition to this Act, reserve areas administered solely or primarily by the Service are entitlement lands under section 6(a) of the Act of October 29, 1976 (Pub. L. 94-565, 31 U.S.C. 1601-1607), for which regulations are published in Title 43, Part 1880, Code of Federal Regulations.

§ 34.5 Distribution of revenues.

The Act provides that the Secretary, at the end of each fiscal year, shall pay to each county out of the fund:

(a) For reserve areas, an amount equal to 25 per centum of the net receipts, collected by the Secretary in connection with the operation and management of such area, provided that when any such area is situated in more than one county, the distributive share to each from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(b) For fee areas, whichever of the following is greater:

(1) An amount equal to 75¢ per acre for the total acreage of the fee area located within such county.

(2) An amount equal to three-fourths of one per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county. For those areas of fee land within the National Wildlife Refuge System as of September 30, 1977, the amount of payment based on fair market value will not be less than the amount paid on the adjusted cost basis as in effect at that time. Actual cost, or appraised value in case of donation, will be used for lands acquired during fiscal year 1978. For those areas of fee lands added to lands administered by the Service after September 30, 1978, by purchase, donation, or otherwise, fair market value shall be determined by appraisal as of the date said areas are administered by the Service.

(3) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum, the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(c) In accordance with section 5(A) of the act, each county which receives a payment under paragraphs (a) and (b) of this section, with respect to any fee area or reserve area, shall distribute that payment to those units of local government which have incurred the loss or reduction of real property tax revenues because of the existence of such area in accordance with the following guidelines.

The local units of government entitled to this distribution will be those such as, but not limited to, cities, towns, townships, school districts, and the county itself in appropriate cases, which levy and collect real property taxes separately from the county or other primary taxing authority or those for which a tax is separately stated on a consolidated tax bill of the primary taxing authority in areas wherein eligible lands are located. The amount of distribution or passthrough to which each unit of local government shall be entitled shall be in the same proportion as its current tax loss bears to the current whole tax loss.

This proportion may be determined; from representative tax bills for the area; by construction by using assessments and millage rates; or by other suitable methods to achieve an equitable result. An example using the representative tax bill method is:

TYPICAL TAX BILL FOR THE AREA

County	$80 or 80%
School District	$20 or 20%
Total	$100 or 100%

The county would receive the total payment, keep 80 percent and pass through 20 percent to the school district. An example using the construction method is:

FOR A TYPICAL ACRE

Assessed value—		
$100 × 80 mills County	$8	80%
$100 × 20 mills School District	$2	20%
Total	$10	100%

Here again, the county would receive the total payment, keep 80 percent and pass through 20 percent to the school district.

Counties shall distribute the payment to eligible local units of government within 90 days from receipt of the payment. In the event a county cannot make the required distribution for reasons of State or local law, or otherwise, the Service will make the payments directly to local units of government upon return of the check and information upon which to make the payments.

(d) Each county which receives a payment under these regulations shall maintain a record for a period of three years as to how the payment was distributed to units of local government under paragraph (c) of this section. The record shall be available for inspection by the regional director, should a dispute arise as to the distribution of payments. See § 29.21-2(c) for a listing of the regional directors of the Service.

§ 34.6 Schedule of appraisals.

The Secretary shall make fair market value appraisals of areas administered by the Service within five years after October 17, 1978, beginning with areas established earliest. All areas for which payments were not authorized prior to fiscal year 1979 (i.e.; fish hatcheries, administrative sites, and research stations) shall be included in the areas appraised during the first fiscal year. Once appraised, areas shall be reappraised on a schedule of at least once every five years. Until areas are appraised, the fair market value for the purposes of this regulation shall be the adjusted cost as of September 30, 1978, except that fee lands added to such areas after that date shall be on the basis of fair market value.

§ 34.7 Fair market value appraisals.

Fee areas administered by the Service will be appraised in accordance with standard appraisal procedures in order to estimate the fair market value of each area as a whole. The evaluation will be premised on an appropriate determination of highest and best use in accordance with existing or potential zoning, the present condition of the land and the general economic situation in the vicinity. Standard appraisal techniques will involve a market data comparison of these areas with similar properties which have sold recently in the local market. These techniques may also include consideration of potential income and development of the cost approach for special use properties having limited marketability. An appropriate evaluation of these areas will also take into consideration a discount for size as recognized by the market for large properties where applicable. The appraisals will be accomplished by the regional director, using Service staff appraisers or private appraisers contracted by the Service.

The Act requires that improvements placed upon the land after the date of Federal Acquisition be excluded from the fair market value. The only structures that will be included in the appraisal are those that were present at the time of Federal acquisition and have not been the subject of substantial renovation or modification with Federal funds. Evaluation of improvements will be based on their contributory value to the area as determined by the highest and best use study. Lands occupied by improvements not subject to appraisal will be valued as though unimproved.

The appraisals will be reviewed by the Serivce's review appraisers and the determination of the regional director as to fair market value shall be final and conclusive and shall be the basis for computation of revenue sharing payments.

§ 34.8 Appropriations authorized.

The Act authorizes appropriations to the fund for any fiscal year when the aggregate amount of payments required to be made exceeds the net receipts in the fund.

§ 34.9 Protests.

(a) Computation of payments shall be based on Federal records concerning land, real property improvements, and accounting of net receipts from areas administered solely or primarily by the Service.

(b) Any affected county may protest the results of the computations of its payments to the regional director in charge of the State and county affected. See § 29.21-2(c) for a listing of the regional directors of the Service.

(c) Any protesting county shall submit sufficient evidence to show error in the computation or the data from which the computations are made.

(d) All protests to the regional director shall be filed within 90 days from the date of receipt of the payment.

(e) The regional director shall consult with the affected county to resolve conflicts in the computations and/or data. The regional director shall make a determination as to the correct payment, which determination shall be final and conclusive.

PART 35—WILDERNESS PRESERVATION AND MANAGEMENT

Subpart A—General Rules

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Subpart B—Special Regulations for Specific National Wildlife Refuge Wilderness—[Reserved]

AUTHORITY: 78 Stat. 890; 16 U.S.C. 1131-1136; 43 U.S.C. 1201.

SOURCE: 36 FR 25426, Dec. 31, 1971, unless otherwise noted.

Subpart A—General Rules

§ 35.1 Definitions.

As used in the rules and regulations in this subchapter: "National Wildlife Refuge System" means all lands, waters, and interests therein administered by the U.S. Fish and Wildlife Service as national wildlife refuges, wildlife ranges, game ranges, wildlife management areas, waterfowl production areas, and areas for the protection and conservation of fish and wildlife which are threatened with extinction.

"National Wilderness Preservation System" means the units designated as wilderness by the Congress under the provisions of the Wilderness Act (supra).

"Wilderness Units" shall mean areas in the National Wildlife Refuge System that have been designated by Act of Congress as units of the National Wilderness Preservation System.

"Secretary" means the Secretary of the Interior.

"Director" means the Director of the U.S. Fish and Wildlife Service.

§ 35.2 Objectives.

(a) Units of the National Wildlife Refuge System have been established by divers legal means and are administered for a variety of wildlife program purposes. The establishment of each wilderness unit is within and supplemental to the purposes for which a specific unit of the National Wildlife Refuge System was established and is administered. Each wilderness shall be administered for such other purposes for which the national wildlife refuge was established and shall be also administered to preserve its wilderness character.

(b) Except as otherwise provided by law, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use and shall be administered in such a manner as will leave them unimpaired for future use and enjoyment as wilderness.

§ 35.3 General regulations.

Rules and regulations governing administration of the National Wildlife Refuge System will apply to wilderness units where said rules and regulations do not conflict with provisions of the Wilderness Act or Act of Congress which establishes the wilderness unit.

§ 35.4 Appropriations and personnel.

No appropriation shall be made available for the payment of expenses or salaries for the administration of a wilderness unit as a separate entity nor shall any appropriation be made available for additional personnel solely for the purpose of managing or administering areas because they are included within the National Wilderness Preservation System.

§ 35.5 Commercial enterprises, roads, motor vehicles, motorized equipment, motorboats, aircraft, mechanical transport, structures, and installations.

Except as specifically provided and subject to existing private rights, there shall be no commercial enterprise and no permanent road within a wilderness unit, and except as necessary to meet minimum requirements for the administration of the area (including measures required in emergencies involving the health and safety of persons within the area), there shall be no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanized transport, and no structure or installation within any such area.

(a) The Director may authorize occupancy and use of a national wildlife refuge by officers, employees, agencies, and agents of Federal, State, and county governments to carry out the purposes of the Wilderness Act and the Act establishing the wilderness and will prescribe conditions under which motorized equipment, mechanical transport, aircraft, motorboats, installations, or structures may be used to meet the minimum requirements for authorized activities to protect and administer the wilderness. The Director may also prescribe the conditions under which such equipment, transport, aircraft, installations, or structures may be used in emergencies involving the health and safety of persons, damage to property, violations of civil and criminal law, or other purposes.

(b) The Director may permit, subject to such restrictions as he deems desirable, the landing of aircraft and the use of motorized equipment at places within a wilderness where such uses were established prior to the date the wilderness was designated by Act of Congress as a unit of the National Wilderness Preservation System.

§ 35.6 Public use.

Public uses of a wilderness unit will be in accordance with the purposes for which the individual national wildlife refuge was established and is administered and laws and regulations governing public uses within the National Wildlife Refuge System.

(a) When public uses are authorized within a wilderness unit, the Refuge Manager may regulate such use. Regulating will include limiting the numbers of persons allowed in the wilderness at a given time, imposing restrictions on time, seasons, kinds and location of public uses, requiring a permit or reservation to visit the area, and similar actions.

(b) All persons entering a wilderness unit will be required to remove such materials as they carry in.

(c) Informational signs for the convenience of visitors will not be permitted in a wilderness unit; however, rustic directional signs for vistor safety may be installed in locations appropriate to a wilderness setting.

(d) Limited public use facilities and improvements may be provided as necessary for the protection of the refuge and wilderness and for public safety. Facilities and improvements will not be provided for the comfort and convenience of wilderness visitors.

(e) Public services and temporary structures generally offered by packers, outfitters, and guides for realizing the recreational or other wilderness purposes of a wilderness may be permitted. Temporary installations and structures which existed for these subsistence purposes under valid special use permit or easement when the wilderness was established may be continued if their use is necessary to administer the refuge for the purposes for which it was established and for wilderness purposes. The number, nature, and extent of such temporary structures and services will be controlled through regulations and special use permits issued by the Refuge Manager so as to provide maximum protection of wilderness resources and values.

(f) Hunting and fishing in a refuge wilderness will be in accordance with Federal and State regulations including special regulations for the specific wildlife refuge. Hunting or fishing which requires motorized equipment will not be permitted except as provided in § 35.5(a) and (b).

§ 35.7 Control of wildfires, insects, pest plants, and disease.

To the extent necessary, the Director shall prescribe measures to control wildfires, insects, pest plants, and disease to prevent unacceptable loss of wilderness resources and values, loss of life, and damage to property.

§ 35.8 Forest management.

Forest management activities in a wilderness unit will be directed toward allowing natural ecological processes to operate freely. Commercial harvesting of timber shall not be permitted except where necessary to control attacks of insects or disease as prescribed in § 35.7.

§ 35.9 Livestock grazing.

(a) The grazing of livestock, where established prior to the date of legislation which designates a wilderness unit, may be permitted to continue subject to Part 29 of this subchapter and in accordance with special provisions which may be prescribed for individual units. Numbers of permitted livestock will not be more liberal than those utilizing a wilderness prior to establishment and may be more restrictive.

(b) The Director may permit, subject to such conditions as he deems necessary, the maintenance, reconstruction or relocation of only those livestock management improvements and structures which existed within a wilderness unit when it was incorporated into the National Wilderness Preservation System.

§ 35.10 Controlled burning.

Controlled burning will be permitted on wilderness units when such burning will contribute to the maintenance of the wilderness resource and values in the unit; however, any fire in a wilderness area that poses a threat to resources or facilities outside the unit will be controlled and extinguished.

[36 FR 25426, Dec. 31, 1971, as amended at 37 FR 12067, June 17, 1972]

§ 35.11 Scientific uses.

Recognizing the scientific value of wilderness, research data gathering and similar scientific uses will be encouraged providing that wilderness values are not impaired. The person or agency involved in scientific investigation must be willing to accept reasonable limitations on activities and location and size of the area to be used for research purposes. A special use permit authorizing scientific uses shall be required.

§ 35.12 Water rights.

Nothing in the regulations in this part constitutes an expressed or implied claim or denial on the part of the Department of the Interior as to exemption from State water laws.

§ 35.13 Access to State and private lands.

Rights of States or persons and their successors in interest, whose land is surrounded by a wilderness unit, will be recognized to assure adequate access to that land. Adequate access is defined as the combination of modes and routes of travel which will best preserve the wilderness character of the landscape. Mode of travel designated shall be reasonable and consistent with accepted, conventional, contemporary modes of travel in said vicinity. Use will be consistent with reasonable purposes for which such land is held. The Director will issue such permits as are necessary for access, designating the means and route of travel for ingress and degress so as to preserve the wilderness character of the area.

[36 FR 25426, Dec. 31, 1971; 37 FR 1049, Jan. 22, 1972]

§ 35.14 Special regulations.

(a) Special regulations will be issued by the Director for individual wilderness units within the National Wildlife Refuge System as established by Public Law. These special regulations will supplement the provisions of this part.

(b) Special regulations may contain administrative and public uses as recognized in the:

(1) Legislative Record of the establishing Act.

(2) Committee Reports of the Congress.

(3) Departmental and Executive Reports to the Congress.

(4) Other provisions.

(c) Such special regulations shall be published in Subpart B of this part after a wilderness has been established by Public Law and shall become effective upon publication in the FEDERAL REGISTER (12-31-71).

Subpart B—Special Regulations for Specific National Wildlife Refuge Wilderness—[Reserved]

PART 36—ALASKA NATIONAL WILDLIFE REFUGES

Subpart A—Introduction and General Provisions

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36.41 Permits.
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TABLE I—SUMMARY LISTING THE NATIONAL WILDLIFE REFUGES IN ALASKA AS ESTABLISHED BY THE ALASKA LANDS ACT

AUTHORITY: The Alaska National Interest Lands Conservation Act, Pub. L. No. 96-487 (December 2, 1980); the National Wildlife Refuge System Administration Act, as amended, 16 U.S.C. 668dd et seq.; Fish and Wildlife Act of 1956, 16 U.S.C. 742(a) et seq.; Refuge Recreation Act, 16 U.S.C. 460k et seq.; Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. 96-511.

SOURCE: 46 FR 31827, June 17, 1981, unless otherwise noted.

Subpart A—Introduction and General Provisions

§ 36.1 Applicability and scope.

(a) The regulations contained in this part are prescribed for the proper use and management of all Alaska National Wildlife Refuges and supplement the general National Wildlife Refuge System regulations found in Title 50 CFR Chapter I, Subchapter C. The general National Wildlife Refuge System regulations are automatically applicable in their entirety to the Alaska National Wildlife Refuges except as supplemented or modified by these regulations or amended by ANILCA.

(b) The regulations contained in this part are applicable only on federally owned lands within the boundaries of any Alaska National Wildlife Refuge. For purposes of this part "federally owned lands" means land interests held or retained by the United States, but does not include those land interests: (1) Tentatively approved, legislatively conveyed, or patented to the State of Alaska, of (2) interim conveyed or patented to a Native Corporation or person.

§ 36.2 Definitions.

The following definitions shall apply to the regulations contained in this part.

(a) "Adequate and feasible access" means a reasonable method and route of pedestrian or vehicular transportation which is economically practicable for achieving the use or development desired by the applicant on his/her non-federal land or occupancy interest, but does not necessarily mean the least costly alternative.

(b) "Adequate snow cover" means snow of sufficient depth to protect the underlying vegetation and soil.

(c) "ANILCA" means the Alaska National Interest Lands Conservation Act, 94 Stat 237, Pub. L. 96-487 (December 2, 1980).

(d) "Aircraft" means a machine or device that is used or intended to be used to carry persons or objects in flight through the air, including but not limited to, airplanes, helicopters and gliders.

(e) "Alaska National Wildlife Refuges" means all lands, waters and interests therein administered by the U.S. Fish and Wildlife Service within the following National Wildlife Refuges in Alaska: Alaska Maritime, Arctic, Alaska Peninsula, Becharof, Innoko, Kanuti, Kenai, Kodiak, Koyukuk, Nowitna, Selawik, Tetlin, Izembek, Togiak, Yukon Delta and Yukon Flats.

(f) "Downed aircraft" means an aircraft that as a result of mechanical failure or accident cannot take off.

(g) "Fish and wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, non-migratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or dead body or part thereof.

(h) "Off-road vehicle" means any motor vehicle designed for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland, or other natural terrain, except snowmobiles as defined in this section.

(i) "Person" means any individual, firm, corporation, society, association, partnership, or other private or public body.

(j) "Public lands" means lands situated in Alaska which are federally owned lands, except:

(1) Land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act (72 Stat. 339) and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) Land selections of a Native Corporation made under the Alaska Native Claims Settlement Act (85 Stat. 688) which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) Lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

(k) "Refuge Manager" means any Fish and Wildlife Service official in charge of an Alaska National Wildlife Refuge, the Alaska Regional Director of the Fish and Wildlife Service, or an authorized representative of either.

(l) "Snowmachine" or "snowmobile" means a self-propelled vehicle intended for off-road travel primarily on snow having a curb weight of not more than 1,000 pounds (450 kg), driven by track or tracks in contact with the snow and steered by a ski or skis in contact with the snow.

(m) "Subsistence uses" means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter or sharing for personal or family consumption; and, for customary trade. For purpose of this paragraph, the term:

(1) "Family" means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

(2) "Barter" means the exchange of fish or wildlife or their parts taken for subsistence uses:

(i) For other fish or game of their parts; or

(ii) For other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature; and

(3) "Customary trade" shall be limited to the exchange of furs for cash, and such other activities, if any, as may be designated in special rules for Alaska National Wildlife Refuges.

(n) "Take" or "taking", as used with respect to fish and wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm or attempt to engage in any such conduct.

(o) "Temporary" means a continuous period of time not to exceed 12 months, except as specifically provided otherwise.

§ 36.3 Information collection.

The information collection requirements contained in §§ 36.15, 36.21, 36.22, 36.23, 36.24, 36.33 and 36.41 of these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018-0035. The information is being collected to solicit information necessary for the Refuge Manager to issue permits and other benefits. The information will be used to grant statutory or administrative benefits. In all sections except § 36.21(f), the obligation to respond is required to obtain a benefit. In § 36.21(f), the obligation to respond is mandatory.

Subpart B—Subsistence uses

§ 36.11 Purpose and policy.

(a) Consistent with the management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each Alaska National Wildlife refuge was established, designated, or expanded by ANILCA, the purpose of this subpart is to provide the opportunity for local rural residents engaged in a subsistence way of life to do so pursuant to applicable State and Federal law.

(b) Consistent with sound management principles and the conservation of healthy populations of fish and wildlife, the utilization of Alaska National Wildlife Refuges is to cause the least adverse impact possible on local rural residents who depend upon subsistence uses of the resources of the public lands in Alaska.

(c) Nonwasteful subsistence uses of fish, wildlife and other renewable resources by local rural residents shall be the priority consumptive uses of such resources over any other consumptive uses permitted within Alaska National Wildlife Refuge areas.

(d) The State of Alaska is authorized to regulate the taking of fish and wildlife for subsistence uses within Alaska National Wildlife Refuges to the extent such regulation is consistent with applicable Federal Law, including but not limited to ANILCA.

(e) Nothing in this subpart shall be construed as permitting the level of subsistence uses of fish and wildlife within Alaska National Wildlife Refuges to be inconsistent with the conservation of healthy populations of fish and wildlife.

§ 36.12 Use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses.

(a) Notwithstanding any other provision of Subchapter C of Title 50 CFR the use of snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses is permitted within Alaska National Wildlife Refuges except at those times and in those areas restricted or closed by the Refuge Manager.

(b) The Refuge Manager may restrict or close a route or area to the use of snowmobiles, motorboats, dog teams or other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses if the Refuge Manager determines that such use is causing or is likely to cause an adverse impact on public health and safety, resource protection, protection of historic or scientific values, subsistence uses, conservation of endangered or threatened species, or other purposes and values for which the refuge was established.

(c) No restrictions or closures shall be imposed without notice and a public hearing in the affected vicinity and other locations as appropriate. In the case of emergency situations, restrictions or closures shall not exceed sixty (60) days and shall not be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such extension is justified according to the factors set forth in paragraph (b) of this section. Notice of the proposed or emergency restrictions or closures and the reasons therefor shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such proposed or emergency actions shall also be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All restrictions and closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the restrictions or closures, or both.

(d) Snowmobiles, motorboats, dog teams and other means of surface transportation traditionally employed by local rural residents engaged in subsistence uses shall be operated (1) in compliance with applicable State and Federal law, (2) in such a manner as to prevent waste or damage to the refuge, and (3) in such a manner as to prevent the herding, harassment, hazing or driving of wildlife for hunting or other purposes.

(e) At all times when not engaged in subsistence uses, local rural residents may use snowmobiles, motorboats, dog teams and other means of surface transportation in accordance with Subpart C of this part.

§ 36.13 Subsistence fishing.

Fish may be taken by local rural residents for subsistence uses in compliance with applicable State and Federal law. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of fish which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 36.14 Subsistence hunting and trapping.

Local rural residents may hunt and trap wildlife for subsistence uses in Alaska National Wildlife Refuges in compliance with applicable State and Federal laws. To the extent consistent with the provisions of this part and other Federal law, applicable State laws and regulations governing the taking of wildlife which are now or will hereafter be in effect are hereby incorporated by reference as a part of these regulations.

§ 36.15 Subsistence uses of timber and plant material.

(a) Notwithstanding any other provision of this part, the noncommercial cutting of live standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in Alaska National Wildlife Refuges as follows:

(1) For live standing timber of diameter greater than three inches at ground height, the Refuge Manager may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(2) For live standing timber of diameter less than three inches at ground height, cutting is permitted unless restricted by the Refuge Manager.

(b) The noncommercial gathering by local rural residents of fruits, berries, mushrooms, and other plant materials for subsistence uses, and the noncommercial gathering of dead or downed timber for firewood, shall be allowed without a permit.

(c)(1) Notwithstanding any other provision of this part, the Refuge Manager, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular plant population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For purposes of this section, the term "temporary" shall mean only as long as reasonably necessary to achieve the purpose of the closure.

(2) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular plant population, the Refuge Manager may immediately close all or any portion of an Alaska National Wildlife Refuge to the subsistence uses of such population. Such emergency closure shall be effective

when made, shall be for a period not to exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(3) Notice of administrative actions taken pursuant to this section, and the reasons justifying such actions, shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and reasons therefor also shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge and the post office or postal authority of every affected community within or near the refuge, or by the posting of signs in the vicinity of the restrictions, or both.

§ 36.16 Closure to subsistence uses of fish and wildlife.

(a) Notwithstanding any other provision of this part, the Refuge Manager, after consultation with the State and adequate notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of an Alaska National Wildlife Refuge to subsistence uses of a particular fish or wildlife population only if necessary for reasons of public safety, administration, or to assure the continued viability of such population. For the purposes of this section, the term "temporarily" shall means only so long as reasonably necessary to achieve the purpose of the closure.

(b) If the Refuge Manager determines that an emergency situation exists and that extraordinary measures must be taken for public safety or to assure the continued viability of a particular fish or wildlife population, he may immediately close all or any portion of a refuge to the subsistence uses of such population. Such emergency closure shall be effective when made, shall not exceed sixty (60) days, and may not subsequently be extended unless the Refuge Manager establishes, after notice and public hearing in the affected vicinity and other locations as appropriate, that such closure should be extended.

(c) Notice of administrative actions taken pursuant to this section and the reasons justifying such actions shall be published in at least one newspaper of general circulation within the State and in at least one local newspaper if available, and information about such actions and justifying reasons shall be made available for broadcast on local radio stations in a manner reasonably calculated to inform local rural residents in the affected vicinity. All closures shall be designated on a map which shall be available for public inspection at the office of the Refuge Manager of the affected refuge area and the post office or postal authority of every affected community within or near the refuge area, or by the posting of signs in the vicinity of the closures, or both.

Subpart C—Use of Motorized Vehicles and Access

§ 36.21 Use of snowmachines, motorboats, aircraft, and non-motorized surface transportation.

(a) The use of snowmachines (during periods of adequate snow cover or frozen river conditions) for traditional activities (where such activities are permitted by ANILCA or other law) and for travel to and from villages and homesites, is authorized within Alaska National Wildlife Refuges, except where such use is prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42. Nothing in this section affects the use of snowmobiles by local rural residents engaged in subsistence uses as authorized by § 36.12.

(b) The use of motorboats, fixed-wing aircraft, and non-motorized surface transportation methods such as domestic dogs, horses and other pack or saddle animals is authorized in Alaska National Wildlife Refuges except where such use is prohibited or otherwise restricted by the Refuge

Manager in accordance with the provisions of § 36.42. Nothing in this section affects the use by local rural residents engaged in subsistence uses of those modes of transportation authorized by § 36.12.

(c) The use of helicoptors in Alaska National Wildlife Refuges, other than at landing areas designated in special regulations or pursuant to the terms and conditions of a permit issued by the Refuge Manager, is prohibited.

(d) In imposing any prohibitions or restrictions on fixed-wing aircraft use the Refuge Manager shall: (1) Comply with the procedures set forth in § 36.42; (2) publish notice of prohibitions or restrictions as "Notices to Airmen" issued by the Department of Transportation; and (3) publish permanent prohibitions or restrictions as a regulatory notice in the U.S. Government Flight Information Service "Supplement Alaska".

(e) The operation of aircraft, at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited.

(f) Except as provided in paragraph (g) of this section, the owners of any aircraft downed after December 2, 1980, shall remove the aircraft and all component parts thereof in accordance with procedures established by the Refuge Manager. In establishing a removal procedure, the Refuge Manager is authorized to: (1) Establish a reasonable date by which aircraft removal operations must be complete; and (2) determine times and means of access to and from the downed aircraft.

(g) The Refuge Manager may waive the requirements of § 36.21(f) when it is determined that: (1) The removal of downed aircraft would constitute an unacceptable risk to human life; or (2) the removal of a downed aircraft would result in extensive resource damage; or (3) the removal of a downed aircraft is otherwise impracticable or impossible.

(h) Salvaging, removing, possessing or attemping to salvage, remove or possess any downed aircraft or component parts thereof is prohibited, except in accordance with a removal procedure established under paragraph (f) of this section; *Provided, however,* That the owner or an authorized representative thereof may remove valuable component parts from a downed aircraft at the time of rescue without a permit.

§ 36.22 Use of off-road vehicles.

(a) The use of off-road vehicles in locations other than established roads and parking areas is prohibited, except on routes or in areas designated by the Refuge Manager or pursuant to a valid permit as prescribed in paragraph (b) or in §§ 36.23 and 36.24. Such designations shall be made in accordance with the procedures of this section. Nothing in this section affects the use of off-road vehicles by local rural residents engaged in subsistence uses as authorized by § 36.12.

(1) The Refuge Manager's determination of whether to designate a route or area for off-road vehicle use shall be governed by E.O. 11644, as amended.

(2) Route or area designations shall be published in the FEDERAL REGISTER.

(3) Notice of routes or areas on which off-road travel is permitted shall be in accordance with the provisions of § 36.42(d).

(4) The closure or restrictions on use of designated routes or areas to off-road vehicles use shall be in accordance with the provisions of § 36.42.

(b) The Refuge Manager is authorized to issue permits for the use of off-road vehicles in existing off-road vehicle trails located in refuge areas (other than areas designated as part of the National Wilderness Preservation System) upon a finding that such off-road vehicles use would be compatible with refuge purposes and values. The Refuge Manager shall include in any permit such stipulations and conditions as are necessary for the protection of refuge resources and values.

§ 36.23 Access to inholdings.

(a) *Purpose.* A permit for access to inholdings pursuant to this section is required only where adequate and feasible access is not affirmatively provided without a permit under §§ 36.21 and 36.22 of these regulations. Thus, it is the purpose of this section to ensure adequate and feasible access across

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refuge areas for any person who has a valid property or occupancy interest in lands within or effectively surrounded by a refuge area or other lands listed in section 1110(b) of ANILCA.

(b) *Application and administration.* (1) Applications for a permit designating methods and routes of access across any Alaska National Wildlife Refuge not affirmatively provided for in this part shall be submitted to the Refuge Manager having jurisdiction over the affected refuge area as specified under § 36.41.

(2) Except as provided in pararaph (c) of this section, the access permit application shall contain the name and address of the applicant, documentation of the relevant property or occupancy interest held by the applicant (including for 1872 Mining Law claimants a copy of the location notice and recordations required under the 1872 Mining Law and 43 U.S.C. 1744), a map or physical description of the relevant property or occupancy interest sufficiently clear to locate the interest on the ground, a map or physical description of the desired route of access, a description of the desired method of access, and any other information necessary to determine the adequacy and feasibility of the route or method of access and its impact on the natural and other values of the refuge area.

(3) The Refuge Manager shall specify in a nontransferable permit adequate and feasible routes and methods of access across refuge lands for any person who meets the criteria of paragraph (a) of this section. The Refuge Manager shall designate the routes and methods desired by the applicant unless it is determined that:

(i) The route or method of access would cause significant adverse impacts on natural or other values of the refuge, and adequate and feasible access otherwise exists; or

(ii) The route or method of access would jeopardize public health and safety, and adequate and feasible access otherwise exists.

(4) If the Refuge Manager makes one of the findings described in paragraph (b)(3) of this section, he shall specify such other alternate methods and routes of access as will provide the applicant adequate and feasible access, while minimizing damage to natural and other values of the refuge.

(5) Any person holding an access permit shall notify the refuge manager of any significant change in the method or level of access from that occurring at the time of issuance. In such cases, the Refuge Manager may modify the terms and conditions of the permit, provided that the modified permit also assures adequate and feasible access under the standards of paragraph (b)(3) of this section.

(6) Routes and methods of access permitted pursuant to this section shall be available for use by guests and invitees of the permittee.

(c) *Access requiring permanent improvements.* (1) Application form and procedure. Any application for access under this section which proposes the construction or modification of an improved road (*e.g.* construction or modification of a permanent, year-round nature and which involves substantial alteration of the terrain or vegetation, such as grading, gravelling of surfaces, concrete bridges, or other such construction or modification), or any other permanent improvement on refuge lands qualifying as a "transportation or utility system" under section 1102 of ANILCA, shall be submitted on the consolidated application form specified in section 1194(b) of ANILCA and processed in accordance with the procedures of Title XI of ANILCA.

(2) Decisionmaking standard:

(i) If a permanent improvement is required for adequate and feasible access under this section (*e.g.* improved right of way or landing strip), the permit granting standards of paragraph (b) of this section shall apply.

(ii) If the permanent improvement is not required as part of the applicant's right to adequate and feasible access to an inholding (*e.g.* pipeline, transmission line the permit granting standards of sections 1104-1107 of ANILCA shall apply.

§ 36.24 Temporary access.

(a) *Applicability.* This section is applicable to State and private landowners who desire temporary access across an Alaska National Wildlife Refuge for the purposes of survey, geophysical, exploratory and other temporary uses of nonfederal lands, and where such temporary access is not affirmatively provided for an §§ 36.21-36.23. State and private landowners meeting the criteria of § 36.23(a) are directed to utilize the procedures of § 36.23 to obtain temporary access.

(b) *Application.* A landowner requiring temporary access across a refuge area for mineral survey, geophysical, exploratory or similar temporary activities shall apply to the Refuge Manager for an access permit and shall provide the relevant information described in § 36.23(b)(2) concerning the proposed access.

(c) *Permit standards, stipulations and conditions.* The Refuge Manager shall grant the desired temporary access whenever he determines that such access will not result in permanent harm to refuge area resources. The Refuge Manager shall include in any permit granted such stipulations and conditions on temporary access as are necessary to ensure that the access granted would not be inconsistent with the purpose for which the refuge was established and to ensure that no permanent harm will result in refuge resources.

(d) *Definition.* For the purposes of this section, "temporary access" shall mean limited, short-term, (*i.e.* up to one year from issuance of the permit) access, which does not require permanent facilities for access to undeveloped State or private lands.

Subpart D—Other Refuge Uses

§ 36.31 Recreational activities.

(a) Public recreational activities within the Alaska National Wildlife Refuges are authorized as long as such activities are conducted in a manner compatible with the purposes for which the areas were established. Such recreational activities include, but are not limited to, sightseeing, nature observation and photography, sport hunting, sport fishing, boating, camping, hiking, picnicking and other related activities. Any existing special regulations now in force and effect shall continue to apply to the applicable refuge lands in Alaska National Wildlife Refuges.

(b) Surface collection, by hand (including handheld gold pans) and for personal recreational use only, of rocks and minerals is authorized: *Provided however,* That (1) collection of silver, platinum, gemstones and fossils is prohibited, and (2) collection methods which may result in disturbance of ground surface, such as the use of shovels, pickaxes, sluice boxes and dredges, are prohibited. The recreation activities specified in paragraphs (a) and (b) of this section may be prohibited or otherwise restricted in accordance with the provisions of § 36.42.

§ 36.32 Taking of fish and wildlife.

(a) The taking of fish and wildlife for sport hunting, trapping and sport fishing is authorized in accordance with applicable State and Federal law and such laws are hereby adopted and made a part of these regulations; *Provided however,* That the Refuge Manager, pursuant to § 36.42, may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted.

(b) The exercise of valid commercial fishing rights or privileges obtained pursuant to existing law, including any use of refuge areas for campsites, cabins, motorized vehicles and aircraft landing directly incident to the exercise of such rights or privileges, is authorized; *Provided, however,* That the Refuge Manager may restrict or prohibit the exercise of these rights or privileges or uses of federally owned lands directly incident to such exercise if he determines, after conducting a public hearing in the affected locality, that they are inconsistent with the purposes of the refuge and that they constitute a significant expansion of commercial fishing activities within such refuge beyond the level of such activities in 1979.

(c) The following provisions shall apply to any person while engaged in the taking of fish and wildlife within an Alaska National Wildlife Refuge:

(1) *Trapping and sport hunting.* (i) Each person shall secure and possess

all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(ii) Each person shall comply with the applicable provisions of Federal law;

(iii) In addition to the requirements of paragraphs (a) and (b) of this section, each person shall continue to secure a trapping permit from the appropriate Refuge Manager prior to trapping on the Kenai, Izembek and Kodiak Refuges and the Aleutian Islands Unit of the Alaska Maritime Refuge.

(2) *Sport and commercial fishing.* (i) Each person shall secure and possess all required State licenses and shall comply with the applicable provisions of State law unless further restricted by Federal law;

(ii) Each person shall comply with the applicable provisions of Federal law.

(d) Nothing in this section shall apply to the taking of fish and wildlife for subsistence uses.

(e) Nothing in these rules shall be interpreted as waiving the requirements of other fish and wildlife conservation statutes such as the Airborne Hunting Act or those provisions of Subchapter C of Title 50 CFR regarding the taking of depredating wildlife. Animal control programs shall only be conducted in accordance with a special use permit issued by the Refuge Manager.

§ 36.33 Cabins and other structures.

(a) *New cabins.* (1) The construction of new cabins on federally owned lands within an Alaska National Wildlife Refuge is prohibited except as may be authorized pursuant to a nontransferable, five-year special use permit issued by the Refuge Manager.

(2) Such special use permit shall only be issued upon a determination that the proposed use, construction, and maintenance of a cabin is compatible with the purposes for which the refuge was established and that the use of the cabin is either directly related to the administration of the refuge or is necessary to provide for a continuation of an ongoing activity or use otherwise allowed within the refuge where the permit applicant has no reasonable alternative site for constructing a cabin outside of the Refuge. In determining whether to permit the use, occupancy, construction, reconstruction or maintenance of cabins or other structures, the Refuge Manager shall be guided by factors such as other public uses, public health and safety, environmental and resource protection, research activities, protection of historic or scientific values, subsistence uses, endangered or threatened species conservation and other management considerations necessary to ensure that the activities authorized pursuant to this section are compatible with the purpose for which the refuge was established. No special use permit shall be issued to authorize the construction of a cabin for private recreational use.

(b) *Existing cabins.* (1) Traditional and customary uses of existing cabins and related structures on federally owned lands within a refuge may be allowed to continue in accordance with a nontransferable, renewable five-year special use permit issued by the Refuge Manager. Such special use permit shall be issued only upon a determination that the traditional and customary uses are compatible with the purposes for which the refuge was established. No special use permits shall be issued to authorize the use of an existing cabin for private recreational use.

(2) Where a valid permit or lease was in effect on December 2, 1980, for cabins, homesites or similar structures on federally owned lands within a refuge, the Refuge Manager shall provide for the continuation of the permit or lease, unless a finding is made, following notice and an opportunity for the leaseholder or permittee to respond, that the continuation of the lease or permit will directly threaten or significantly impair the purposes for which the refuge was established.

(c) No special use permit shall be issued under paragraphs (a) or (b)(1) of this section unless the permit applicant:

(1) In the case of existing cabins or structures, reasonably demonstrates by affidavit, bill of sale or other documentation, proof of possessory inter-

ests or right of occupancy in the cabin or structure;

(2) Submits an accurate sketch or photograph of the existing or proposed cabin or structure and a map showing its geographic location;

(3) Agrees to vacate the cabin or structure and remove all personal property from it upon nonrenewal or revocation of the permit;

(4) Acknowledges in the permit application that the applicant has no interest in the real property on which the cabin or structure is located or will be constructed; and

(5) Submits a list of the names of all immediate family members residing in the cabin or structure.

(d) Permits authorized under the provisions of this section shall be renewed every five years until the death of the last immediate family member of the claimant residing in the cabin or structure under permit. Renewal will occur unless the Refuge Manager determines after notice and hearing, on the basis of substantial evidence in the administrative record as a whole, that the use under the permit has caused or may cause significant detriment to the principal purposes for which the refuge area was established. The Refuge Manager's decision may be appealed pursuant to the provisions of 43 CFR 4.700.

§ 36.34 Firearms.

The possession, use and transporting of firearms is authorized for hunting and personal protection in accordance with State and Federal laws unless prohibited or otherwise restricted by the Refuge Manager in accordance with the provisions of § 36.42.

§ 36.35 Unattended Property.

(a) Leaving any snowmachine, vessel, off-road vehicle or other personal property unattended for longer than 12 months without the prior permission of the Refuge Manager is prohibited, and any property so left may be impounded by the Refuge Manager.

(b) The Refuge Manager may (1) designate areas where personal property may not be left unattended for any time period, (2) establish limits on the amount and type of personal property that may be left unattended, (3) prescribed the manner in which personal property may be left unattended or (4) establish limits on the length of time personal property may be left unattended.

(c) Such designations and restrictions arising under paragraph (b) of this section shall be (1) published in at least one newspaper of general circulation within the State, posted at community post offices within the affected vicinity, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected community, and designated in a map which shall be available for public inspection at the office of the Refuge Manager, or (2) designated by the posting of appropriate signs or (3) both.

(d) In the event unattended property interferes with the safe and orderly management of a refuge area or causes damage to refuge resources, it may be impounded by the Refuge Manager at any time.

§ 36.36 Sled dogs and household pets.

The general trespass provisions of 50 CFR 26.21 shall not apply to household pets and sled, work, or pack dogs under the direct control of their owners or handlers, but such activities may be prohibited or otherwise restricted pursuant to the provisions of § 36.42.

[46 FR 40192, Aug. 7, 1981]

Subpart E—Permits and Public Participation

§ 36.41 Permits.

(a) *Application.* (1) Regulations generally applicable to the National Wildlife Refuge System and these regulations provide in several sections that permits may be obtained from the Refuge Manager. For activities on the Arctic and Yukon Flats Refuges, such permits are to be obtained from the Refuge Manager in Fairbanks, Alaska. For activities on the Becharof, Kodiak, Kenai, Izembek, and Yukon Delta Refuges and for the Aleutian Islands Unit of the Alaska Maritime Refuge, such permits are to be obtained from the Refuge Manager, headquartered, respectively, in King Salmon, Kodiak, Soldotna, Cold Bay, Bethel, and Adak, Alaska. For activities on all other Alaska Refuges, permits are to be obtained from the designated Refuge Manager in Anchorage, Alaska.

(2) If the applicant is unable or does not wish to submit the application in written form, the Refuge Manager shall provide the applicant an opportunity to present the application orally and shall keep a record of such oral application.

(3) The Refuge Manager shall grant or deny the application in writing within 45 days of its receipt, except for good cause. In the event the Refuge Manager cannot act upon the application within 45 days of its receipt, he shall so notify the applicant in writing.

(4) The Refuge Manager shall set forth in writing the basis for the decision. If the application is denied, the Refuge Manager shall notify the applicant in writing of the reasons for the denial.

(b) *Denial and appeal procedures.* A person whose application for a permit, required pursuant to this part, has been denied by the Refuge Manager has the right to have the application reconsidered by the Regional Director by contacting him within 180 days of the issuance of the denial. For purposes of reconsideration, the permit applicant shall present the following information:

(1) Any statement or documentation, in addition to that included in the initial application, which demonstrates that the applicant satisfies the criteria set forth in the section under which the permit application is made;

(2) The basis for the permit applicant's disagreement with the prior findings and conclusions; and

(3) Whether or not the permit applicant requests an informal hearing before the Regional Director.

The Regional Director shall provide a hearing if requested by the applicant. After consideration of the written materials and oral hearing, if any, and within a reasonable period of time, the Regional Director shall affirm, reverse, or modify the denial of the Refuge Manager and shall set forth in writing the basis for the decision. A copy of the decision shall be forwarded promptly to the applicant and shall constitute final agency action.

[46 FR 40192, Aug. 7, 1981]

§ 36.42 Public participation and closure procedures.

(a) *Authority.* The Refuge Manager may close an area or restrict an activity on an emergency, temporary, or permanent basis.

(b) *Criteria.* In determining whether to close an area or restrict an activity otherwise allowed, the Refuge Manager shall be guided by factors such as public health and safety, resource protection, protection of cultural or scientific values, subsistence uses, endangered or threatened species conservation, and other management considerations necessary to ensure that the activity or area is being managed in a manner campatible with the purposes for which the Alaska National Wildlife Refuge area was established.

(c) *Emergency closures or restrictions.* (1) Emergency closures or restrictions relating to the use of aircraft, snowmachines, motorboats, or nonmotorized surface transportation shall be made after notice and hearing; (2) ememgency closures or restrictions relating to the taking of fish and wildlife shall be accompanied by notice with a subsequent hearing; (3) other emergency closures or restrictions shall become effective upon notice as prescribed in § 36.42(f); and (4) no emergency closure or restriction shall be for a period exceeding 30 days.

(d) *Temporary closures or restrictions.* (1) Temporary closures or restrictions relating to the use of aircraft, snowmachines, motorboats or nonmotorized surface transportation, or to the taking of fish and wildlife, shall not be effective prior to notice and hearing in the vicinity of the area(s) affected by such closures or restriction, and other locations as appropriate; (2) other temporary closures shall be effective upon notice as prescribed in § 36.42(f); (3) temporary closures or restrictions shall extend only for so long as necessary to achieve their purposes, and in no case may exceed 12 months or be extended beyond that time.

(e) *Permanent closures or restrictions.* Permanent closures or restrictions shall be made only after notice and public hearings in the affected vicinity and other locations as appropriate, and after publication in the Federal Register.

(f) *Notice.* Emergency, temporary or permanent closures or restrictions shall be: (1) Published in at least one newspaper of general circulation in the State and in at least one local newspaper if available, posted at community post offices within the vicinity affected, made available for broadcast on local radio stations in a manner reasonably calculated to inform residents in the affected vicinity, and designated on a map which shall be available for public inspection at the office of the Refuge Manager and other places convenient to the public; or (2) designated by the posting of appropriate signs; or (3) both.

(g) *Openings.* In determining whether to open an area to public use or activity otherwise prohibited, the Refuge Manager shall provide notice in the Federal Register and shall, upon request, hold a hearing in the affected vicinity and other location, as appropriate prior to making a final determination.

(h) Except as otherwise specifically permitted under the provision of this part, entry into closed areas or failure to abide by restrictions established under this section is prohibited.

Table I—Summary Listing of the National Wildlife Refuges in Alaska as Established by the Alaska Lands Act, Pub. L. 96-487, December 2, 1980

1. Alaska Maritime, including:
   Aleutian Island*
   Bering Sea*
   Bogoslof*
   Chamisso*
   Forrester Island*
   Hazy Islands*
   Pribilof*
   Saint Lazaria*
   Semidi*
   Simeonof*
   Tuxedni*
2. Alaska Peninsula
3. Arctic, including: William O. Douglas*
4. Becharof**
5. Innoko
6. Izembek*
7. Kanuti
8. Kenai*
9. Kodiak*
10. Koyukuk
11. Nowitna
12. Selawik
13. Tetlin
14. Togiak, including: Cape Newenham*
15. Yukon Delta, including:
   Clarence Rhode*
   Hazen Bay*
   Nunivak*
16. Yukon Flats*

PART 37—GEOLOGICAL AND GEOPHYSICAL EXPLORATION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

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*These indicated units were previously existing refuges before the Alaska Lands Act of December 2, 1980, and are now part of the 16 National Wildlife Refuges established by the Alaska Lands Act.

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APPENDIX I—LEGAL DESCRIPTION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

AUTHORITY: Sec. 1002, Pub. L. 96-487, 94 Stat. 2449, as amended by sec. 110, Pub. L. 97-394, 96 Stat. 1982 (16 U.S.C. 3142); sec. 110, Pub. L. 89-665, as added by sec. 206, Pub. L. 96-515, 94 Stat. 2996 (16 U.S.C. 470h-2); sec. 401, Pub. L. 148, 49 Stat. 383, as amended (16 U.S.C. 715s); 31 U.S.C. 9701; 5 U.S.C. 301; 209 DM 6.1.

SOURCE: 48 FR 16858, Apr. 19, 1983, unless otherwise noted.

NOTE: The information collection requirements contained in this part do not require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq., because there are fewer than 10 respondents annually.

Subpart A—General Provisions

§ 37.1 Purpose.

These regulations implement the requirement of section 1002(d) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2450, as amended, 16 U.S.C. 3142(d), that the Secretary establish guidelines governing surface geological and geophysical exploration for oil and gas within the coastal plain of the Arctic National Wildlife Refuge. Section 1002 mandates an oil and gas exploration program for the refuge's coastal plain. The program shall culminate in a report to Congress which contains, among other things, the identification of those areas within the coastal plain that have oil and gas production potential, an estimate of the volume of oil and gas concerned, the description of the wildlife, its habitat, and other resources that are within the areas identified, and an evaluation of the adverse effects that the carrying out of further exploration for, and the development and production of, oil and gas within such areas will have on the refuge's resources. It is the objective of this program to ascertain the best possible data and information concerning the probable existence, location, volume, and potential for further exploration, development, and production of oil and gas within the coastal plain without significantly adversely affecting the wildlife, its habitat, or the environment and without unnecessary duplication of exploratory activities. These regulations prescribe the requirements and procedures for obtaining authorization for and the conduct of such exploratory activities, and for submitting to the Department the resulting data and information. These regulations also describe other matters relating to the administration of the program.

§ 37.2 Definitions.

The following definitions are applicable to the sections of this part.

(a) "Act" means section 1002 of the Alaska National Interest Lands Conservation Act, 94 Stat. 2449, as amended by section 110 of Pub. L. 97-394, 96 Stat. 1982, 16 U.S.C. 3142.

(b) "Adequate protective cover" means snow or a frostline, or both, sufficient to protect the vegetation and soil from significant adverse effects due to the operation of surface equipment, as determined by the Regional Director.

(c) "Coastal lagoons" means the waters and submerged lands between the mainland and the offshore barrier islands that lie between Brownlow Point and the Aichilik River within the coastal plain.

(d) "Coastal plain" means that area shown on the map entitled "Arctic National Wildlife Refuge", dated August 1980, and legally described in Appendix I of this part.

(e) "Cultural resource" means any district, site, building, structure, or object significant in American history, architecture, archeology, engineering or culture, as determined in accordance with 36 CFR 60.6

(f) "Department" means the Department of the Interior and any of its component bureaus and offices.

(g) "Director" means the Director of the U.S. Fish and Wildlife Service of his authorized representative.

(h) "Exploration plan" means the way in which a program of exploratory activities is proposed to be arranged and carried out.

(i) "Exploratory activities" means surface geological exploration or seismic exploration or both of the coastal plain and all related activities and logistics required for either or both, and any other type of geophysical exploration of the coastal plain which involves or is a component of an exploration program for the coastal plain involving surface use of refuge lands and all related activities and logistics required for such exploration.

(j) "Harass" means to pursue, hunt, take, capture, molest, collect, harm, shoot or kill or attempt to engage in any of the preceding by either intentional or negligent act or omission.

(k) "Hazardous substances" means petroleum, petroleum products, toxic materials, chemical effluent, explosives, or other materials which are likely to cause significant adverse effects to the refuge's wildlife, its habitat, the environment, or humans.

(l) "Permittee" means the person authorized by a special use permit issued pursuant to this part to conduct exploratory activities on the coastal plain; any official, employee, contractor, subcontractor or agent of the permittee or of the permittee's designee; and any participant to the permittee's permit.

(m) "Person" means any individual, partnership, firm, corporation, association, organization, or agency.

(n) "Plan of operation" means detailed procedures, covering a period not to exceed 12 months, proposed for executing an exploration plan.

(o) "Processed, analyzed and interpreted data or information" means any data or information which results from any subsequent modification, processing, analysis, or interpretation of raw data and information by human or electronic means, on or off the refuge.

(p) "Raw data and information" means all original observations and recordings in written or electronic form and samples obtained during field operations.

(q) "Refuge" means the Arctic National Wildlife Refuge.

(r) "Regional Director" means the Regional Director, Region 7 of the U.S. Fish and Wildlife Service, or his authorized representative.

(s) "Rehabilitation" means the act of returning the landform and vegetation to as near its original shape and condition as practicable, as determined by the Regional Director.

(t) "Secretary" means the Secretary of the Interior or his authorized representative.

(u) "Service" means the U.S. Fish and Wildlife Service.

(v) "Solicitor" means the Solicitor of the Department of the Interior or his authorized representative.

(w) "Special use permit" means a revocable, nonpossessory privilege issued in writing by the Regional Director and authorizing the permittee to enter and use the refuge for a specified period to conduct exploratory activities, and other activities necessary thereto.

(x) "Support facilities" means facilities on or near the refuge used to provide logistical support for the field exploratory activities.

(y) "Third party" means any person other than a representative of the permittee or the United States government.

(z) "Waste" means all material for discard from exploratory activities. It includes, but is not limited to, human waste, trash, garbage, refuse, fuel drums, shot wire, survey stakes, explosives boxes, ashes, and functional and nonfunctional equipment.

(aa) "Wildlife" means fish or wildlife or both.

§ 37.3 Other applicable laws.

(a) Nothing in this part shall be construed to relieve a permittee or any person from complying with any applicable federal laws or any applicable state and local laws, the requirements of which are not inconsistent with this part.

(b) Until the litigation between the United States and the State of Alaska over title to the submerged lands of the coastal lagoons, "United States v. Alaska", Sup. Ct., No. 84, Orig. (1979), is resolved, the permittee shall satisfy both federal and state requirements for conducting oil and gas exploration in the coastal lagoons. In the event of an inconsistency between such requirements the permittee shall satisfy that requirement which provides the greatest environmental protection.

§ 37.4 Disclaimer and disqualification.

(a) Authorization granted under this part to conduct exploratory activities shall not confer a right to any discovered oil, gas, or other mineral in any manner.

(b) Any person who obtains access pursuant to § 37.54 to data and information obtained as a result of carrying out exploratory activities shall be disqualified from obtaining or participating in any lease of the oil and gas to which such data and information pertain. Any person who obtains access to data and information obtained as a result of carrying out exploratory activities from any person other than the permittee who obtained such data and information shall be disqualified from obtaining or participating in any lease of the oil and gas to which such data and information pertain.

Subpart B—General Requirements

§ 37.11 General standards for exploratory activities.

(a) No exploratory activities shall be conducted without a special use permit. Requirements and procedures for obtaining a special use permit are prescribed in §§ 37.21 through 37.23.

(b) Exploratory activities shall be conducted so that they do not:

(1) Significantly adversely affect the refuge's wildlife, its habitat, or the environment;

(2) Unnecessarily duplicate exploratory activities of the permittee or another permittee; and

(3) Unreasonably or significantly interfere with another permittee's activities.

(c) Reexamination of an area may be permitted by the Regional Director if necessary to correct data deficiencies or to refine or improve data or information already gathered.

(d) Drilling of exploratory wells is prohibited.

§ 37.12 Responsibilities of permittee.

(a) The permittee shall comply and shall be responsible for the compliance of its officials, employees, contractors, subcontractors and agents with the regulations of this part, the terms and conditions of its special use permit, the provisions of its approved exploration plan and plan or operation, and all reasonable stipulations, demands and orders issued by the Regional Director. All actions by the permittee inconsistent with this part are prohibited.

(b) The permittee shall designate a general representative who shall be the person primarily accountable for managing the permittee's authorized activities, and a field representative who shall be the person primarily accountable for supervising the permittee's field operations, and their alternates. The Regional Director shall be informed of the names, addresses, and telephone numbers of the persons designated pursuant to this paragraph and of the procedures for contacting them on a 24-hour basis, including the radio frequency for field operations, at the time the permittee submits its first plan of operation pursuant to § 37.24. The permittee shall notify the Regional Director promptly of any changes in such personnel or the procedures for contacting them.

(c) Field operations shall be conducted by the permittee or a designee approved by the Regional Director. Assignment of a designee shall be in a manner and form acceptable to the Regional Director. The Regional Director shall approve or disapprove a permittee's designee within 30 days following the receipt of such information as the Regional Director may require from the permittee and designee in order to reach his decision. Acceptance of a designee to act for the permittee in matters relating to the conduct of exploratory activities does not relieve the permittee of responsibility for compliance with applicable laws, its special use permit, exploration plan, plan of operation, and all reasonable stipulations, demands and orders of the Regional Director. The designee will be considered the agent of the permittee and will be responsible for complying fully with the obligations of the permittee. The serving of stipulations, demands, orders, and notices on the permittee's designee, when delivered personally or by radio or mail will be deemed to be service upon the permittee. The permittee shall notify the Regional Director in writing when assignment of a designee has been cancelled. A designee cannot reassign its designation to another party. The permittee or designee shall notify the Regional Director 10 working days in advance of its intention to commence field operations for each season that it conducts exploratory activities.

(d) The permittee shall submit to the Regional Director 30 days prior to the commencement of field operations for each year covered by its exploration plan an updated list of the names and addresses of all persons participating in the exploratory activities covered thereby or sharing in the data and information resulting therefrom through a cost-sharing or any other arrangement.

(e) The permittee shall perform operations and maintain equipment in a safe and workmanlike manner. The permittee shall take all reasonable precautions necessary to provide adequate protection for the health and safety of life and the protection of property and to comply with any health and safety requirements prescribed by the Regional Director.

§ 37.13 Group participation.

(a) To avoid unnecessary duplication of exploratory activities, the permittee shall, if ordered by the Regional Director, afford all interested persons, through a signed agreement, an opportunity to participate in its exploratory activities. Within 60 days following such order, the permittee shall provide evidence satisfactory to the Regional Director of its compliance therewith. The permittee shall provide the Regional Director with the names and addresses of all additional participants, as they join.

(b) If, with the approval of the Regional Director, the permittee at any time changes any provisions of its approved exploration plan relating to areal extent, intensity of exploratory activities, or logistical support, and the Regional Director determines such changes to be significant, the Regional Director may require the permittee to afford all interested persons another opportunity to participate in the permitted exploratory activities in accordance with paragraph (a) of this section.

(c) The requirements of this section do not preclude the permittee from initiating field operations as authorized under its special use permit.

(d) All participants shall be bound by the regulations of this part, the permittee's special use permit, approved exploration plan and plan of operation and any reasonable stipulations, demands and orders issued by the Regional Director.

§ 37.14 Bonding.

(a) Before the issuance of its special use permit, any applicant whose exploration plan has been approved under § 37.22 shall furnish to the Service a surety bond of not less than $100,000, or other security satisfactory to the Service, to secure performance of its exploration plan and plan(s) of operation and compliance with the permit and this part. Such surety bond shall be issued by qualified surety companies approved by the Department of the Treasury (see Department of the Treasury Circular No. 570). Such bond shall be maintained by the permittee for the benefit of the Service until the Regional Director notifies the permittee in writing that all terms and conditions of its exploration plan, special use permit, plan of operation, and this part have been met or otherwise consents to its cancellation or termination. Any bond furnished or maintained by a person under this section shall be on a form approved or prescribed by the Regional Director. The Regional Director may require an increase in the amount of any bond or other security to be furnished and any outstanding bond or security or require a new bond or security whenever additional coverage is needed to secure performance of its exploration plan and plan(s) of operation and compli-

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ance with the permit and this part or is needed as a consequence of default.

(b) Whenever a permittee's exploration plan, plan of operation, or special use permit is revised or modified, the permittee shall provide to the Regional Director within 30 days thereafter an acknowledgement by the surety that its bond continues to apply to the exploration plan, plan of operation or special use permit, as revised or modified, unless a waiver of notice to the surety is contained in the bond or the surety is not otherwise released by the revision or modification, or unless the permittee provides to the Service an increased or additional bond.

(c) Recovery of the amount specified in the permittee's bond or other security shall not preclude the Department from seeking specific performance by the permittee of any obligations not satisfied by enforcement of the bond or security, or compensation for any damages, losses or costs due to the permittee's activities which exceed the amount recovered, by pursuing the Department's legal remedies.

Subpart C—Exploration Plans

§ 37.21 Application requirements.

(a) Prior to submitting an exploration plan, applicants may meet with the Regional Director to discuss their proposed plans and exploratory activities and the requirements of this part.

(b) Any person wanting to conduct exploratory activities may apply for a special use permit by submitting for approval one or more written exploration plans, in triplicate, to the Regional Director, Region 7, U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503. To be considered, exploration plans covering the period from the inception of the program through May 31, 1986, or any portions thereof, must be received by the Regional Director during normal business hours on May 20, 1983; exploration plans covering exploratory activities other than seismic exploration for the period from June 1, 1984, through May 31, 1986, or any portions thereof, must be received by the Regional Director during normal business hours on April 2, 1984; and exploration plans covering, but not limited to, seismic exploration for the period from October 1, 1984, through May 31, 1986, or any portions thereof, must be received by the Regional Director during normal business hours on June 4, 1984.

(c) In addition to containing the information required in paragraph (d) of this section, any exploration plan submitted shall describe the applicant's plan for carrying out an integrated program of exploratory activities in such a manner as will satisfy the objective and limitations stated in § 37.1. If an applicant submits an exploration plan on May 20, 1983 with the intention of submitting another exploration plan on March 1, 1984, the applicant shall describe in its initial plan how its future exploratory activities will be integrated with those proposed under its initial plan. Any applicant submitting an exploration plan on May 20, 1983 which incorporates preliminary field investigations and/or surface geological exploration proposed to commence before August 1, 1983 may submit a written request to the Regional Director for an expedited review and approval of that portion of the exploration plan covering such preliminary investigations and/or exploration. Each exploration plan submitted must be published and be the subject of a public hearing in accordance with requirements of § 37.22(b).

(d) An exploration plan shall set forth in general terms such information as is required by this part and by the Regional Director in determining whether the plan is consistent with this part, including, but not limited to:

(1) The name and address of any person who will conduct the proposed exploratory activities, i.e., the applicant/permittee, and, if that person is an agency, firm, corporation, organization, or association, the names and addresses of the responsible officials, or, if a partnership, the names and addresses of all partners;

(2) The names and addresses of all persons planning at the time of plan submittal to participate in the proposed exploratory activities or share in the data and information resulting therefrom through a cost-sharing or any other arrangement;

(3) Evidence of the applicant's technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment and of the applicant's responsibility in complying with any exploration permits previously held by it;

(4) A map at a scale of 1:250,000 of the geographic areas in which exploratory activities are proposed and of the approximate locations of the applicant's proposed geophysical survey lines, travel routes to and within the refuge, fuel caches, and major support facilities;

(5) A general description of the type of exploratory activities planned, including alternate exploratory methods and techniques if proposed, and the manner and sequence in which such activities will be conducted;

(6) A description of how various exploratory methods and techniques will be utilized in an integrated fashion to avoid unnecessary duplication of the applicant's own work;

(7) A schedule for the exploratory activities proposed, including the approximate dates on which the various types of exploratory activities are proposed to be commenced and completed;

(8) A description of the applicant's proposed communication technniques;

(9) A description of the equipment, support facilities, methods of access and personnel that will be used in carrying out exploratory activities;

(10) A hazardous substances control and contingency plan describing actions to be taken to use, store, control, clean up, and dispose of these materials in the event of a spill or accident;

(11) A general description of the anticipated impacts that the proposed exploratory activities may have on the refuge's wildlife, its habitat, the environment, subsistence uses and needs, and cultural resources, and a description of mitigating measures which will be implemented to minimize or avoid such impacts;

(12) A description of the proposed procedures for monitoring the environmental impacts of its operation and its compliance with all regulatory and permit requirements;

(13) A statement that, if authorized to conduct exploratory activities, the applicant shall comply with this part, its special use permit, its approved exploration plan, plan of operation, and all reasonable stipulations, demands and orders issued by the Regional Director;

(14) A description of the applicant's proposed data quality assurance and control program; and

(15) Such other pertinent information as the Regional Director may reasonably require.

[48 FR 16858, Apr. 19, 1983, as amended at 49 FR 7570, Mar. 1, 1984]

§ 37.22 Approval of exploration plan.

(a) An exploration plan shall be approved by the Regional Director if he determines that it satisfies the requirements of § 37.21 (c) and (d) and is otherwise consistent with the Act and the regulations of this part. In order to meet the objective and limitations stated in § 37.1, enforce the standards stated in § 37.11(b), or minimize adverse impacts on subsistence uses, the Regional Director may approve or disapprove any exploration plan in whole or in part or may require, as a condition of approval, an applicant to conduct its exploratory activities in an assigned area or jointly with other applicants or to make such modification in its exploration plan as he considers necessary and appropriate to make it consistent with this part. No plan shall be approved if the applicant submitting it does not demonstrate to the reasonable satisfaction of the Regional Director its adequate technical and financial ability to conduct integrated and well designed exploratory activities in an arctic or subarctic environment, and a history of responsible compliance with any exploration permits that it or its responsible officials or partners may have previously held.

(b) Upon receipt of an exploration plan submitted in accordance with § 37.21(b), the Regional Director shall promptly publish notice of the application and text of the plan in the FEDERAL REGISTER and newspapers of general circulation in the State of Alaska. The Regional Director shall determine within 90 days after the plan is submitted whether the plan is consistent with this part. The Regional Director may extend this 90-day period for up to 30 additional days upon written notice to the applicant. Before making his determination, the Regional Director shall hold at least one public hearing in the State for the purpose of receiving public comments on the plan and may confer with the applicant whenever he deems it necessary. The Regional Director shall give the applicant written notice of his determination.

(c) Whenever the Regional Director disapproves an exploration plan in whole or in part, he shall notify the applicant in writing of the reasons for his disapproval. The applicant may request the Director to consider that which was disapproved by the Regional Director by filing a written request with the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240, within 30 days from the date of disapproval. Such a request shall not operate to stay the Regional Director's disapproval. The request shall:

(1) State fully the basis for the applicant's disagreement with the Regional Director's determination;

(2) Include any statement or documentation, in addition to that already submitted by the applicant with its application, which demonstrates that the applicant's exploration plan is consistent with this part; and

(3) Indicate whether or not the applicant requests an informal hearing before the Director.

The Director shall provide an informal hearing if requested by the applicant. Within 30 days of the receipt of the applicant's request for reconsideration or of the applicant's hearing, if any, whichever is later, the Director shall affirm, reverse, or modify the Regional Director's determination. Written notice of the Director's decision and the reasons therefor shall be provided promptly to the applicant. The Director's decision shall constitute the final administrative decision of the Secretary in the matter. Nothing in this part shall be construed to deprive the Secretary or the Assistant Secretary for Fish and Wildlife and Parks of the authority to take jurisdiction at any stage of any appeal or request for reconsideration and render the final decision in the matter after holding any informal hearing that may be required, to review any decision of the Regional Director or Director, or to direct the Regional Director or Director to reconsider a decision.

(d) The Regional Director, as a condition of approval of any exploration plan under this section, shall:

(1) Require that all data and information (including processed, analyzed and interpreted information) obtained as a result of carrying out the plan shall be submitted to the Regional Director, as provided in § 37.53;

(2) Make such data and information available to the public, except that any processed, analyzed and interpreted data or information shall be held confidential by the Department for a period of not less than 10 years following the submission of such data or information to the Regional Director or 2 years following any lease sale including the area within the refuge from which the information was obtained, whichever period is longer, as provided in § 37.54; and

(3) Require that all raw data and information obtained as a result of carrying out the plan shall be made available by the permittee to any person at fair cost.

(e) In the course of evaluating an exploration plan, the Regional Director shall also evaluate the effect of the proposed exploratory activities on subsistence uses and needs, the availability for exploration of alternate areas within the coastal plain, and alternatives to the proposed activities which would reduce or eliminate the use of areas within the coastal plain needed for subsistence purposes. If the Regional Director finds that the exploration plan, if approved, would significantly restrict subsistence uses, he shall satisfy the requirement to hold a hearing on this isssue by incorporating it in any hearing held pursuant to paragraph (b) of this section and shall otherwise satisfy the procedural requirements of section 810(a) of the Alaska National Interest Lands Conservation Act, 94 Stat. 2427, 16 U.S.C. 3120, before approving the plan.

§ 37.23 Special use permit.

(a) Within 45 days, or sooner if practicable, of approving an exploration plan, or portion thereof, the Regional Director shall, unless prohibited by law, issue a special use permit to authorize the permittee to proceed with those exploratory activities described and approved in its exploration plan, or portion thereof, provided that the requirements of § 37.14(a) have been satisfied. The special use permit may contain such terms and conditions and may be amended from time to time as the Regional Director deems necessary and appropriate to carry out the Act and this part.

(b) Before issuing a special use permit to authorize exploration of lands within the coastal plain allotted pursuant to the Act of May 17, 1906, 34 Stat. 197, as amended by the Act of August 2, 1956, 70 Stat. 954, or on lands within the coastal plain the surface estate in which has been selected by or conveyed to the Kaktovik Inupiat Corporation pursuant to Sections 12 and 14 of the Alaska Native Claims Settlement Act, 85 Stat. 701 and 702, 43 U.S.C. 1611 and 1613, the Regional Director shall seek the views of the holder of such approved native allotment or the Corporation for the purpose of developing permit conditions designed to mitigate the effects of such exploration on its interests.

§ 37.24 Plan of operation.

Each approved exploration plan shall be supplemented by a written plan of operation for each fiscal year, or portions thereof, covered by the exploration plan. Each plan of operation shall specify the field operations for implementing that exploration plan during the year, or portions thereof, covered by the plan of operation. Each plan of operation shall be submitted to the Regional Director at least 30 days before field operations are to be commenced thereunder, except that any plan of operation supplementing a portion of an exploration plan that received expedited review and approval pursuant to § 37.21(c) shall be submitted 10 days before field operations are to be commenced thereunder. A plan of operation shall set forth such specific information as is required by the Regional Director in determining whether the plan is consistent with the exploration plan to which it pertains and with this part. The permittee shall make such modifications in its plan of operation as are deemed at any time by the Regional Director to be necessary and appropriate to ensure such consistency. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c).

§ 37.25 Revision.

(a) A permittee may request the Regional Director for permission to revise its approved exploration plan. Until the Regional Director grants the permittee's request, no revision of its exploration plan shall be implemented. Such request shall be deemed to be granted on the 10th working day following its receipt unless the Regional Director denies the request; advises the permittee that the proposed revision is major and, therefore, must satisfy the publication and hearing requirements of § 37.22(b) before it can be acted upon; by timely written notice extends the period for considering the request; conditionally approves the proposed revision with such modifications as he stipulates are necessary and appropriate; or, unconditionally approves the proposed revision within a shorter period. No revision of an exploration plan shall be approved that is inconsistent with the Act or this part. Approval of any revision is subject to the conditions stated in § 37.22(d) to the extent that they are pertinent.

(b) Upon 10 working days advance notice to the Regional Director of its proposed revision, or within such lesser period as may be concurred in by the Regional Director, a permittee may implement a revision of its plan of operation, provided that such revision is consistent with the exploration plan to which the plan of operation pertains and this part. The Regional Director may require the permittee to defer, modify, or rescind such revision whenever he determines that such action is necessary and appropriate to ensure such consistency.

(c) Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's actions unless such stay is granted in writing by the Director.

Subpart D—Environmental Protection

§ 37.31 Environmental protection.

(a) The permittee shall conduct operations in a manner which avoids significant adverse effects on the refuge's wildlife, its habitat, and environment. The Regional Director may impose stipulations to supplement the permittee's special use permit and issue other orders as needed to ensure that the permittee's activities are conducted in a manner consistent with this part. If, after 30 days, or in emergencies such shorter periods as shall not be unreasonable, following a demand by the Regional Director, the permittee shall fail or refuse to perform any action required by this part, its exploration plan, plan of operation, special use permit, or a stipulation or order of the Refuge Manager, the department shall have the right, but not the obligation, to perform any or all such actions at the sole expense of the permittee. Prior to making such demand, the Regional Director shall confer with the permittee, if practicable to do so, regarding the required action or actions included in the demand. Reconsideration of the Regional Director's demands under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's demands or the Department's performance pursuant to this section unless such stay is granted in writing by the Director.

(b) *Terrestrial environment.* (1) Vehicles shall be operated in a manner such that the vegetative mat or soil is not significantly damaged or displaced. Blading of snow on trails or campsites shall be limited so as to maintain an adequate protective cover.

(2) Ground vehicles shall be of the type causing the least practicable harm to the surface, such as Nodwell FN-110 or FN-60 or Bombardier track vehicles, mobile camps on flexible tracks or skids, vibrator units on flexible tracks or wheels, D-7 Caterpillar tractors, or their equivalent. They shall be operated only in the winter and where there is adequate protective cover. Vehicle operation shall cease in the spring when the Regional Director determines that the protective cover is no longer adequate. Operation of ground vehicles in the summer is prohibited.

(3) Movement of equipment through riparian willow stands shall be avoided, except when approved by the Regional Director.

(4) Above ground explosive charges shall be utilized in a manner to minimize damage to the vegetative mat.

(5) Campsites may be located on lakes which are frozen throughout, including botton sediments, on durable ground, and on lagoons which are frozen to sufficient depth to ensure safety of personnel, but shall not be located on river ice. Durable ground can include gravel or sand bars or vegetated ground with adequate protective cover.

(6) Campsites and trails shall be kept clean of waste.

(7) Gray water may be discharged to the surface provided it is filtered, disinfected, and not discharged directly into lakes and rivers.

(8) The permittee shall take all precautionary measures necessary to prevent and suppress man-caused tundra fires and shall notify the Regional Director of the occurrence of any tundra fires immediately or as soon as communication can be established.

(9) Rehabilitation of disturbed surface areas shall be accomplished by the permittee in accordance with schedules and a plan required and approved by the Regional Director. Revegetation shall be accomplished exclusively with endemic species.

(10) The permittee shall not harass wildlife in any manner, including, but not limited to, close approach by surface vehicles or aircraft. Aircraft should maintain an altitude of at least 1500 feet above ground level whenever practicable.

(11) No explosives shall be detonated within ½ miles of any known denning

brown or polar bear or any muskoxen or caribou herd.

(12) The permittee shall operate in such a manner as not to impede or restrict the free passage and movement of large mammals, including caribou, muskoxen, moose, polar bear, and brown bear.

(13) Feeding of wildlife is prohibited. This includes the leaving of garbage or edibles in a place which would attract wildlife. Garbage shall be kept in covered animal-proof containers while awaiting incineration.

(14) Hunting, fishing, and trapping by the permittee within the refuge are prohibited during the conduct of exploratory activities. Employing firearms in defense of life and property is allowed.

(c) *Aquatic environment.* (1) The permittee shall not significantly alter the banks of streams, rivers, or lakes while conducting exploratory activities. Crossings of stream, river, or lake banks shall utilize a low angle approach or, if appropriate, snow bridges. If snow bridges are utilized for bank protection they shall be free of dirt and debris and shall be removed after use or prior to breakup each year, whichever occurs first.

(2) No water shall be removed from any subsurface source. Removal of water or snow cover from or compaction of snow cover on streams, rivers or lakes identified by the Regional Director as inhabited by fish shall be prohibited during the winter.

(3) To protect fish and other aquatic fauna, high explosives shall not be detonated within, beneath, on or in close proximity to fish-bearing waters unless prior drilling indicates that the water body, including its substrate, is solidly frozen. The minimum acceptable offset from fishing-bearing waters for various size charges is:

1 pound charge—50 feet
2 pound charge—75 feet
5 pound charge—125 feet
10 pound charge—150 feet
25 pound charge—250 feet
100 pound charge—500 feet

Use of a charge in excess of 100 pounds shall be approved by the Regional Director and shall be in a manner prescribed or approved by him.

(4) All operations shall be conducted in a manner that will not impede the passage of fish, disrupt fish spawning, overwintering or nursery areas identified by the Regional Director or block or change the character or course of, or cause significant siltation or pollution of any stream, river, pond, pothole, lake, lagoon, or drainage system.

(5) Ground vehicles shall not cross active spring areas.

(d) *Cultural resources.* (1) Prior to implementing any plan of operation, the permittee shall obtain from the Regional Director copies of the cultural resource reconnaissance reports, maps and other available documents which identify all known cultural resource sites and areas of predicted high probability of containing cultural resources. The Regional Director may reasonably restrict or prohibit exploratory activities in these areas and, in accordance with 36 CFR Part 800, thereby mitigate, minimize or avoid any adverse effects thereon.

(2) Unless otherwise specified by the Regional Director, the following prohibitions shall be in effect:

(i) No vehicle of any type shall pass over or through a known cultural resource site with standing structures; and

(ii) No seismic train shall camp on a known cultural resource site.

(3) If any exploratory activities require entry into areas known to contain historic or archeological resources, high probability areas, or areas previously unsurveyed for cultural resources, prior to the initiation of such activities, the permittee shall, if ordered by the Regional Director, locate, identify and evaluate properties eligible for listing on the National Register of Historic Places, recover for the Department historic and archeological data contained in such properties, and take other measures, as directed by the Regional Director, designed to mitigate, minimize or avoid to the extent practicable any significant adverse effects on them. Such efforts shall be done in a manner prescribed or approved by the Regional Director in accordance with a programmatic memorandum of agreement among the Service, the State Historic Preservation Officer and the

Advisory Council on Historic Preservation, and without expense or liability to the Department.

(e) *General.* (1) All spills or leakages of any hazardous substances, fires, fatalities, and any other conditions which threaten the refuge's resources, the environment, or human safety, shall be reported by the permittee to the Regional Director immediately or as soon as communication can be established. Other notifications shall be made by the permittee as required by applicable laws.

(2) All combustible solid waste shall be incinerated or returned to the permittee's base of operations for disposal in accordance with applicable federal, state and local standards. All non-combustible solid waste, including, but not limited to, fuel drums and shot wire, shall be returned to the permittee's base of operations for disposal in accordance with applicable federal, state and local standards.

(3) No discharge of petroleum, petroleum products, or toxic materials shall be made within the refuge. All hazardous subtances utilized and/or generated in conducting exploratory activities shall be contained, controlled, and cleaned up in accordance with the permittee's approved hazardous substances control and contingency plan. Such measures shall take precedence over all other matters except human safety.

(4) Unless exigencies warrant, in any field operations employing surface geological exploration, the equipment, facilities, and personnel used within the coastal plain shall not exceed that necessary to support a maximum of 6 simultaneously operating surface geological survey crews, and in any field operations employing seismic exploration methods, the equipment, facilities, and personnel used within the coastal plain shall not exceed that necessary to support a maximum of 6 simultaneously operating seismic survey crews.

(5) No fuel storage facilities shall be placed within the annual floodplain of fish-bearing watercourses or within 100 feet of any other water body, and no vehicle refueling shall occur within such areas except when approved by the Regional Director. All fuel storage sites shall be approved by the Regional Director. Fuel containers shall be properly stored and marked with the permittee's name, type of fuel, and last date of filling. All fuel containers with a storage capacity greater than 55 gallons shall be of double-wall construction. All fuels containers, including those emptied, shall be capped when not in actual use. All fuel containers placed within the annual floodplain of fish-bearing watercourses shall be removed prior to breakup.

(6) The permittee shall not disturb or damage any geodetic land survey monuments. If any monument is disturbed or damaged, the permittee shall reestablish it in a manner acceptable to the Regional Director.

(7) The timing and location of the detonation of explosives shall be approved in advance by the Regional Director.

(8) No permanent structures or facilities will be erected within the coastal plain. The type and location of temporary structures and facilities including, but not limited to, ice airstrips, for use in support of exploratory activities must be approved by the Regional Director.

§ 37.32 Special areas.

(a) *Caribou calving and post-calving special areas.* The Regional Director shall designate within the coastal plain specific caribou calving and post-calving special areas which shall be closed to all exploratory activities for such periods between May 10 and July 15 of each year as those areas are determined by the Regional Director to be used for caribou calving and post-calving or both so as to ensure that exploratory activities do not significantly adversely affect calving and post-calving caribou. No exploratory activities shall be conducted in such designated areas during such periods.

(b) *Muskoxen calving special areas.* Whenever he deems it necessary or appropriate to ensure that exploratory activities do not significantly adversely affect calving muskoxen, the Regional Director shall designate within the following areas specific areas which shall be closed to all exploratory activities for such periods between April 15 and

June 5 of each year as those areas are determined by the Regional Director to be used for muskoxen calving. No exploratory activities shall be conducted in such designated areas during such periods.

(1) One generally encompassing the Tamayariak uplands bordered on the east by the Tamayariak River, on the northwest by the Canning River, on the east by a north-south line intersecting the benchmark "Can", and on the south by an east-west line also intersecting the benchmark "Can".

(2) One generally encompassing the Carter Creek uplands, bordered on the east by the Sadlerochit River, on the north by the mainland coastline, on the west by Carter Creek, and on the south by an east-west line approximately six miles inland from the coastline.

(3) One generally encompassing the Niguanak hills, bordered on the east by the Angun River, on the north by the mainland coastline, on the west by a line parallel to and two miles west of the Niguanak River, crossing portions of the Okerokovik River, and extending south to the southern boundary of the coastal plain, and on the south by the southern boundary of the coastal plain.

(c) *Brown bear and polar bear denning special areas.* Whenever he deems it necessary or appropriate to ensure that exploratory activities do not significantly adversely affect denning bears, the Regional Director shall designate within the coastal plain brown bear and polar bear denning sites within ½ mile of which all exploratory activities shall be prohibited for such periods between October 1 of one year and April 30 of the following year as are prescribed by the Regional Director.

(d) *Snow goose staging special areas.* Whenever he deems it necessary or appropriate to ensure that exploratory activities do not significantly adversely affect staging snow geese, the Regional Director shall designate within the general area bordered on the east by the Aichilik River, on the north by the mainland coastline, on the west by the Hulahula River, and on the south by the southern boundary of the coastal plain, specific snow goose staging special areas which shall be closed to all exploratory activities during such periods between August 20 and September 10 of each year as those areas are determined by the Regional Director to be used for snow goose staging. No exploratory activities shall be conducted in such designated areas during such periods.

(e) In addition, the Regional Director may designate specific areas within the coastal plain that are important for other wildlife or that encompass lands the surface estate in which is owned by holders of approved native allotments or the Kaktovik Inupiat Corporation as special areas in which exploratory activities may be prohibited, conditioned or otherwise restricted in such manner and for such period as prescribed by the Regional Director to avoid significant adverse effects from exploratory activities.

(f) The Regional Director shall notify the permittee of the locations of designated special areas and of the applicable limitations on its exploratory activities as far in advance of the effective dates of such limitations as is possible. The Regional Director may modify or remove such designations and limitations whenever he determines that they are no longer necessary to protect the resources or values of such special areas from significant adverse effects.

(g) No exploratory activities shall be conducted by any permittee at any time within ½ mile of the source of the Sadleochit Spring or within ¼ mile on either side of Sadlerochit Spring Creek for a distance of 5 miles downstream from its source.

§ 37.33 Environmental briefing.

The permittee shall provide opportunities for the Regional Director to conduct environmental and other pertinent briefings for all of its personnel involved in field operations prior to commencement of field work and periodically thereafter as the Regional Director may determine. The permittee shall require the attendance of its personnel and arrange the time and place for such briefings upon the request of the Regional Director. In addition, the permittee shall provide a copy of this part to each employee involved with its exploratory activities.

Subpart E—General Administration

§ 37.41 Responsibilities of the Regional Director.

The Regional Director is authorized to approve and disapprove exploration plans; issue special use permits; inspect and regulate exploratory activities; require compliance with the permittee's approved exploration plan, plan of operation, this part, and other statutes and regulations under which the refuge is administered; and perform all other duties assigned to the Regional Director by this part. The Regional Director may issue written or oral stipulations, demands and orders to carry out his responsibilities, and amend and terminate them as he deems appropriate. Any oral stipulation, demand or order shall be confirmed in writing within 3 working days from its issuance.

§ 37.42 Inspection and monitoring.

The Regional Director may designate field representatives, hereinafter known as Field Monitors, to monitor the exploratory activities in the field. A Field Monitor may exercise such authority of the Regional Director as is provided by delegation, except that a Field Monitor may not revoke a permittee's special use permit, and provided that any order issued by a Field Monitor which suspends all of a permittee's field activities shall, except in emergencies, require the concurrence of the Regional Director. The Regional Director shall have a continuing right of access to any part of the exploratory activities at any time for inspection or monitoring and for any other purpose that is consistent with this part. A permittee, upon request by the Regional Director, shall furnish lodging, food, and reasonable use of its communication and surface and air transportation systems, to the Field Monitors and other representatives of the United States for the purposes of inspecting and monitoring the permittee's exploration activities in the field and for any other purpose consistent with this part. Whenever possible, the Regional Director shall give advance notice of the need for such services and facilities, including the names of persons to be accommodated.

§ 37.43 Suspension and modification.

If at any time while exploratory activities are being carried out under an approved exploration plan and special use permit, the Regional Director, on the basis of information available to him, determines that continuation of further activities under the plan or permit will significantly adversely affect the refuge's wildlife, its habitat, or the environment, or significantly restrict subsistence uses, or that the permittee has failed to comply with its approved exploration plan, plan of operation, special use permit, any reasonable stipulation, demand or order of the Regional Director, or any regulation of this part, the Regional Director may, without any expense or liability to the Department, suspend activities under the plan and/or permit for such time, or make such modifications to the plan and/or permit, or both suspend and so modify, as he determines necessary and appropriate. Such suspensions shall state the reasons therefore and be effective immediately upon receipt of the notice. Suspensions issued orally shall be followed by a written notice confirming the action within 3 days, and all written notices will be sent by messenger or registered mail, return receipt requested. A suspension shall remain in effect until the basis for the suspension has been corrected to the satisfaction of the Regional Director. For good cause, the Regional Director may also grant at the permittee's request, a written waiver of any provision of its special use permit, so long as such waiver will not be likely to result in significant adverse effects on the refuge's resources. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director's actions unless such stay is granted in writing by the Director.

§ 37.44 Revocation and relinquishment.

For nonuse, for failure to comply with § 37.14, or for any action of the permittee not consistent with this part, the Regional Director may revoke or a permittee may relinquish a special use permit to conduct exploratory activities at any time by sending to the other a written notice of revocation or relinquishment. Such notice shall state the reasons for the revocation or relinquishment and shall be sent by registered mail, return receipt requested, at least 30 days in advance of the date that the revocation or relinquishment will be effective. Revocation or relinquishment of a permit to conduct exploratory activities shall not relieve the permittee of the obligation to comply with all other obligations specified in this part and in its special use permit, approved exploration plan and plan of operation. Reconsideration of the Regional Director's actions under this section may be obtained by employing the procedures described in § 37.22(c). A request for reconsideration shall not operate to stay the Regional Director actions unless such stay is granted in writing by the Director.

§ 37.45 Exploration by the U.S. Geological Survey.

Notwithstanding the requirement found in § 37.21(b) on when exploration plans shall be submitted, the U.S. Geological Survey may at any time apply for a special use permit to conduct exploratory activities by submitting for approval one or more exploration plans in accordance with the requirements of this part and the Act. No plan submitted by the Survey will be approved unless (1) no other person has submitted a plan for the area involved which satisfies the regulations of this part and (2) the information which would be obtained from the Survey is needed to make an adequate report to Congress pursuant to the Act. Sections 37.13, 37.14, 37.22(d)(3), 37.46, 37.47, and 37.54(d) and the provisions of §§ 37.22(d)(2), 37.53(e), and 37.54 on processed, analyzed and interpreted data or information shall not apply to the Survey. If authorized to conduct exploratory activities, the Survey shall comply with this part in all other respects. All contractors and subcontractors used by the Survey to conduct exploratory activities shall be subject to all of the regulations of this part excepting §§ 37.13 and 37.46 and the provisions of §§ 37.22(d)(2), 37.53(e), and 37.54 on processed, analyzed and interpreted data or information.

§ 37.46 Cost reimbursement.

(a) Each applicant for or holder of a special use permit issued under this part shall reimburse the Department for its actual costs incurred, including, but not limited to, its direct costs and indirect costs as established by the indirect cost rate of the charging bureau or office, in publishing, reviewing (which includes, but is not limited to, conducting any public hearings thereon), modifying, and approving or disapproving the applicant's or permittee's exploration plan(s); reviewing evidence of the permittee's compliance with any order given by the Regional Director under § 37.13; preparing and issuing the permittee's special use permit; reviewing and acting on the permittee's plan(s) of operation; inspecting, monitoring, and enforcing the permittee's compliance with its approved exploration plan(s), plan(s) or operation, special use permit and this part; performing the permittee's obligations pursuant to § 37.31(a); and identifying, evaluating and preserving historic, archeological and cultural resources in areas to be explored by the permittee; as further delineated by the Regional Director.

(b) Each applicant shall submit with each exploration plan submitted a payment, the amount of which shall be an estimate made by the Regional Director of the costs which will be incurred by the Department in publishing, reviewing, modifying and approving or disapproving the applicant's exploration plan.

(1) If the applicant's plan is disapproved or if the applicant withdraws its application before a decision is reached on its plan, the applicant shall be responsible for such costs incurred by the Department in processing the applicant's application up to the date on which the plan is disap-

proved or the Regional Director receives written notice of the applicant's withdrawal, and for costs subsequently incurred by the Department in terminating the application review process. If the costs actually incurred exceed the estimate paid at the time of application, reimbursement by the applicant of such additional costs shall be due within 30 days of receiving notice from the Regional Director of the additional amount due. If the actual costs incurred are less than the estimate paid by the applicant, the excess shall be refunded to the applicant.

(2) If the applicant's plan is approved, the applicant shall pay an estimate made by the Regional Director of the costs which will be incurred by the Department in preparing and issuing to the applicant a special use permit. The first quarterly payment made by the applicant pursuant to paragraph (c) of this section will be adjusted upward or downward, as warranted, to accurately reflect the actual costs incurred by the Department in processing the permit. If an applicant withdraws after its plan is approved, but before its special use permit is issued, the applicant shall be responsible for such costs incurred by the Department in preparing the applicant's permit up to the date on which the Regional Director receives written notice of the applicant's withdrawal and for costs subsequently incurred by the Department in terminating permit preparation and issuance.

(3) When two or more applications are filed which the Regional Director determines to be in competition with each other, each applicant shall reimburse the Department for such actual costs incurred in processing its exploration plan and special use permit, if issued, except that those costs which are not readily identifiable with one of the applicants, shall be paid by each of the applicants in equal shares.

(c) Upon issuance of a special use permit, the permittee shall make an initial advance payment covering that current fiscal year quarter and quarterly payments thereafter to cover the actual costs incurred by the Department in administering the permittee's permit for its duration. Such costs shall include, but are not limited to, those direct costs and indirect costs, as established by the indirect costs rate of the charging bureau or office, incurred in reviewing and acting on permittee's plan(s) of operation; reviewing evidence of the permittee's compliance with any order given by the Regional Director under § 37.13; preparing and issuing the permittee's special use permit; inspecting monitoring, and enforcing the permittee's compliance with its approved exploration plan, plan(s) of operation, special use permit and this part; performing the permittee's obligations pursuant to § 37.31(a); and identifying, evaluating and preserving historic, archeological and cultural resources in areas to be explored by the permittee. Each quarterly payment will be paid at the outset of the quarter and will cover the estimated cost of that quarter as adjusted by the Regional Director by reason of any adjustment warranted by paragraph (b) of this section or by overpayments or underpayments in previous quarters for which adjustment has not already been made. Upon termination of the permittee's special use permit, reimbursement or refundment of any outstanding amounts due the Department or the permittee shall be made within 180 days.

(d) Estimates required by this section shall be made by the Regional Director on the basis of the best available cost information. However, reimbursement shall not be limited to the Regional Director's estimate if actual costs exceed projected estimates.

(e) All payments required by this section shall be made payable to the Service. No applicant or permittee shall set off or otherwise deduct any debt due to or any sum claimed to be owed to it by the United States from any payment required by this section. Overpayments shall be credited or refunded to the person making them.

(f) When through partnership, joint venture or other business arrangement more than one person applies for or participates in a special use permit, each shall be jointly and severally liable for reimbursing the Department's cost under this section.

(g) Any lodging, food, communication, and transportation provided by a permittee under § 37.42 shall be deemed to be costs paid to the Department in kind for services rendered in inspecting and monitoring the permittee's exploratory activities. At the end of each quarter, the permittee shall furnish the Regional Director with a report, in a format approved or prescribed by him, on the goods and services provided during that quarter, and the names of the individuals to whom they were provided.

(h) Any dispute between an applicant or permittee and the Regional Director as to costs actually incurred by the Department and charged to the applicant or permittee shall be finally decided for the Secretary by the Director, using the procedures described in § 37.22(c).

§ 37.47 Civil penalties.

(a) This section prescribes the procedures for assessing a civil penalty for the violation of any provision of an approved exploration plan, any term or condition of the special use permit issued under § 37.23, or any prohibition contained in this part. The civil penalty remedy afforded by this section is in addition to all other remedies available to the Secretary.

(b) *Notice of violation.* (1) The notice of violation shall be issued by the Solicitor and served personally or by registered mail upon the person named in the notice (hereinafter the respondent) or his authorized representative. The notice shall contain:

(i) A summary of the facts believed to show a violation by the respondent;

(ii) A specific reference to the provision, term, condition or prohibition allegedly violated; and

(iii) The amount of the penalty proposed to be assessed. The notice may also contain an initial proposal for compromise or settlement of the action.

(2) The notice of violation shall also advise respondent of his right to:

(i) Respond to the notice within 45 calendar days from the date of its issuance by: (A) Undertaking informal discussions with the Solicitor; (B) Accepting the proposed penalty or the compromise, if any, offered in the notice; or (C) Filing a petition for relief in accordance with paragraph (c) of this section; or

(ii) Take no action and await the Solicitor's notice of assessment. Such response must be received by the Solicitor on or before the 45th day during normal business hours at the address stated in the notice.

(3) Any notice of violation may be amended, but any nontechnical amendment will extend the running of the respondent's 45 day period for response from the date of the notice to the date of the amendment.

(4) Acceptance of the proposed penalty or the compromise, if any, stated in the notice of violation shall be deemed to be a waiver of the notice of assessment required in paragraph (d) of this section and of the respondent's right to an opportunity for a hearing described in paragraph (e) of this section.

(c) *Petition for relief.* If the respondent chooses, he may ask that no penalty be assessed or that the amount be reduced and he may admit or contest the legal sufficiency of the Solicitor's charges and allegations of facts, by filing a petition for relief at the address specified in the notice within 45 calendar days from the date thereof. Such petition must be received by the Solicitor on or before the 45th day during normal business hours. The petition shall be in writing and signed by the respondent. If the respondent is a corporation, partnership, association or agency, the petition must be signed by an officer or official authorized to sign such document. It must set forth in full the legal or other reasons for the relief requested.

(d) *Notice of assessment.* (1) After 45 calendar days from the date of the notice of violation or any amendment thereof, the Solicitor may proceed to determine whether the respondent committed the violation alleged and to determine the amount of civil penalty to be assessed, taking into consideration the information available and such showing as may have been made by the respondent. The Solicitor shall notify the respondent of his determinations by a written notice of assessment, which shall also set forth the basis for his determinations. The notice of assessment shall be served on the respondent personally or by registered mail.

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(2) The notice of assessment shall also advise the respondent of his right to request a hearing on the matter in accordance with paragraph (e) of this section.

(e) *Request for a hearing.* Within 45 calendar days from the date of the issuance of the notice of assessment, the respondent may request a hearing to be conducted on the matter in accordance with 5 U.S.C. 554 through 557 by filing a dated, written request for hearing with the Hearings Division, Office of Hearings and Appeals, Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203. Such request must be received at this address on or before the 45th day during normal business hours. The respondent shall state the respondent's preference as to the place and date for a hearing. The request must enclose a copy of the notice of violation and the notice of assessment. A copy of the request shall be served upon the Solicitor personally or by mail at the address specified in the notice of assessment.

(f) *Finality of decision.* If no request for a hearing is filed in accordance with this section, the assessment stated in the notice of assessment shall be effective and constitute the final administrative decision of the Secretary on the 45th calandar day from the date of the notice of assessment. If the request for hearing is timely filed in accordance with this section, the date of the final administrative decision in the matter shall be as provided in paragraph (g) or (h) of this section. When a civil penalty assessed under this section becomes final, the respondent shall have 20 calendar days from the date of the final administrative decision within which to make full payment of the penalty assessed. Payment will be timely only if received in the Office of the Solicitor during normal business hours on or before the 20th day.

(g) *Hearing.* (1) Upon receipt of a request for a hearing, the Hearings Division will assign an administrative law judge who shall have all the powers accorded by law and necessary to preside over the parties and the hearing and to make decisions in accordance with 5 U.S.C. 554 through 557. Notice of such assignment shall be given promptly to the respondent and to the Solicitor at the address stated in the notice of assessment. Upon notice of the assignment of an administrative law judge to the case, the Solicitor shall file all correspondence and petitions exchanged between the Solicitor and the respondent which shall become a part of the hearing record.

(2) The hearing shall be conducted in accordance with 5 U.S.C. 554 through 557 and with 43 CFR Part 4 to the extent that it is not inconsistent with this part. Subject to 43 CFR 1.3, the respondent may appear in person, by representative, or by counsel. The hearing shall be held in a location established by the administrative law judge, giving due regard to the convenience of the parties, their representatives and witnesses. Failure to appear at the time set for hearing shall be deemed a waiver of the right to a hearing and consent to the decision on the record made at the hearing. The judge shall render a written decision on the record, which shall set forth his findings of facts and conclusions of law and the reasons therefore, and an assessment of a civil penalty if he determines that the respondent committed the violation charged.

(3) Discovery shall be obtained by employing the procedures described 43 CFR 4.1130 through 4.1141. In addition, discovery of facts known and opinions held by experts, otherwise discoverable under 43 CFR 4.1132(a) and acquired and developed in anticipation of administrative adjudication or litigation, may be obtained only as follows:

(i)(A) A party through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion.

(B) Upon motion, the administrative law judge may order further discovery by other means, subject to such restrictions as to scope and such provisions under paragraph (g)(3)(iii) of this section concerning fees and expenses, as the administrative law judge may deem appropriate.

(ii) A party may discover facts known or opinions held by an expert, who has been retained or employed by another party in anticipation of administrative adjudication or litigation or preparation therefore and who is not expected to be called as a witness, only upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

(iii) Unless manifest injustice would result, (A) the administrative law judge shall require the party seeking discovery to pay the expert, or the Department if the expert is an employee of the United States, a reasonable fee for time spent in responding to paragraphs (g)(3)(i)(B) and (g)(3)(ii) of this section; and (B) with respect to discovery under paragraph (g)(3)(i)(B) of this section the administrative law judge may require and with respect to discovery under paragraph (g)(3)(ii) of this section the administrative law judge shall require, the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(4) Unless the notice of appeal is filed in accordance with paragraph (h) of this section, the administrative law judge's decision shall constitute the final administrative decision of the Secretary in the matter and shall become effective 30 calendar days from the date of the decision.

(h) *Appeal.* (1) Either the respondent or the Solicitor may seek an appeal from the decision of an administrative law judge as to the respondent's violation or penalty or both by the filing of a notice of appeal with the Director, Office of Hearings and Appeals, United States Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203, within 30 calendar days of the date of the administrative law judge's decision. Such notice shall be accompanied by proof of service on the administrative law judge and the opposing party.

(2) Upon receipt of such a request, the Director, Office of Hearings and Appeals, shall appoint an ad hoc appeals board to determine whether an appeal should be granted, and to hear and decide an appeal. To the extent they are not inconsistent herewith, the provisions of 43 CFR Part 4, Subpart G shall apply to appeal proceedings under this paragraph. The determination of the board to grant or deny an appeal, as well as its decision on the merits of an appeal, shall be in writing and become effective as the final administrative determination of the Secretary in the matter on the date it is rendered, unless otherwise specified therein.

(i) *Amount of penalty.* The amount of any civil penalty assessed under this section shall not exceed $10,000 for each violation. Each day of a continuing violation shall, however, constitute a separate offense. In determining the amount of such penalty, the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the respondent, his history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require shall be considered.

(j) *Petition for remission.* The Solicitor may modify or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this paragraph unless the matter is pending in court for judicial review or for recovery of the civil penalty assessed. A petition for remission may be filed by the respondent with the Solicitor at any time from the date of the notice of violation referred to in paragraph (b) of this section until 90 days after the date of final administrative decision assessing a civil penalty. The petition must set forth in full the legal and other reasons for the relief requested. Any petition that is not timely filed will not receive consideration. The Solicitor's decision shall be the final administrative decision for the Secretary on the petition.

Subpart F—Reporting and Data Management

§ 37.51 Operational reports

(a) Each permittee shall submit reports every 2 weeks on the progress of exploratory activities in a manner and format approved or prescribed by the Regional Director. These shall include, but are not limited to, a daily log of operations, and a report on the discovery of any springs, hydrocarbon seeps, and other unusual phenomena.

(b) Each permittee shall submit to the Regional Director a semiannual report of exploratory activities conducted within the periods from December through May and June through November. These semiannual reports shall be submitted on August 1 and February 1 or, as otherwise specified by the Regional Director, and shall contain the following:

(1) A description of the work performed;

(2) Charts, maps, or plats depicting the areas in which any exploratory activities were conducted, specifically identifying the seismic lines and the locations where geological exploratory activities were conducted, and the locations of campsites, airstrips and other support facilities utilized;

(3) The dates on which exploration was actually performed.

(4) A narrative summary of any: (i) Surface occurrences of hydrocarbon or environmental hazards, and (ii) adverse effects of the exploratory activities on the refuge's wildlife, its habitat, the environment, cultural resources, or other uses of the area in which the activities were conducted; and

(5) Such other information as may be reasonably specified by the Regional Director.

(c) Each permittee shall also submit such other reports as are specified in this part.

§ 37.52 Records.

The permittee shall keep accurate and complete records relating to its exploratory activities and to all data and information, including, but not limited to, raw, processed, reprocessed, analyzed and interpreted data and information, obtained as a result thereof. Until September 2, 1989, the Secretary shall have access to and the right to examine and reproduce any records, papers, or other documents relating to such activities, data and information in order to ascertain the permittee's compliance with this part, ability to perform under any special use permit, and reliability and accuracy of all data, information and reports submitted to the Regional Director.

§ 37.53 Submission of data and information.

(a) The permittee shall submit to the Regional Director free of charge all data and information obtained as a result of carrying out exploratory activities. Such data and information include copies of all raw data and information and all processed, analyzed and interpreted data or information. The permittee shall, unless directed otherwise by the Regional Director, submit such data and information within 30 days after the end of the annual quarter during which they become available to it at every level of data gathering or utilization, i.e., acquisition, processing, reprocessing, analysis, and interpretation.

(b) Each submission of geophysical data or information shall contain, unless otherwise specified by the Regional Director, the following:

(1) An accurate and complete record of each geophysical survey conducted under the permittee's permit, including digital navigational data, if obtained, and final location maps of all survey stations; and,

(2) All seismic data developed under the permit, presented in a format prescribed or approved by the Regional Director and of a quality suitable for processing.

(c) Processed geophysical information shall be submitted with extraneous signals and interference removed as much as possible, and presented in a format and of a quality suitable for interpretive evaluation, reflecting state-of-the-art processing techniques.

(d) Processed, analyzed and interpreted data or information required to be submitted by the Act and this section shall include, but not be limited to, seismic record sections, and intepretations thereof; geologic maps, cross sections, and intepretations thereof; maps of gravitational and magnetic fields and interpretations thereof; and chemical or other analyses of rock samples collected on the refuge and interpretations thereof.

(e) Any permittee or other person submitting processed, analyzed and interpreted data or information to the Regional Director shall clearly identify them by marking the top of each page bearing such data or information with the words "PROCESSED, ANALYZED AND INTERPRETED DATA OR INFORMATION". All pages so marked shall be physically separated by the person submitting them from those not so marked, unless doing so will destroy the value or integrity of the data or information presented. In that event or in the event that an item is submitted which is not susceptible to marking by page, the document or item submitted will be accompanied by a summary identifying the location of all processed, analyzed and interpreted data or information which are not segregated or marked by page, and explaning the reasons therefore. All pages not marked with this legend, all other data and information not identified as bearing such data or information, and all other data and information incorrectly identified as bearing such data or information shall be treated as raw data and information and shall be made available to the public upon request in accordance with § 37.54(a). The Department reserves the right to determine whether any page or item is correctly identified as constituting processed, analyzed and interpreted data or information.

(f) If the permittee proposes to transfer any data or information covered by this section to a third party or the third party proposes to transfer such data or information to another third party, the transferor shall notify the Regional Director at least 10 days in advance and shall require the receiving third party, in writing, to abide by the obligations of the permittee as specified in this section as a condition precedent to the transfer of such data or information.

(g) Upon request by the Department, a permittee shall identify each person to whom the permitttee has provided data and information pursuant to § 37.22(d)(3) and provide a description of the area to which such data and information pertain.

§ 37.54 Disclosure.

(a) The Department shall make raw data and information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party available to the public upon submittal to the Congress of the report required by subsection (h) of the Act in accordance with subsection (e)(2)(C) of the Act, this section, and the procedural requirements of the Freedom of Information Act, 5 U.S.C. 552, and 43 CFR Part 2. The Department shall withhold from the public all processed, analyzed and interpreted data or information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party, if they have been properly marked and correctly identified in accordance with § 37.53(e), until 10 years after the submission of such data or information to the Regional Director or until 2 years after any lease sale including the area within the refuge from which such data or information were obtained, whichever period is longer, by invoking subsection (e)(2)(C) of the Act and exemption 3 to the Freedom of Information Act, 5 U.S.C. 552(b)(3). Thereafter, the Department shall treat such data or information as raw data and information. The Department shall make all other records, except exploration plans which must be published in accordance with § 37.22(b), submitted by a permittee or a third party relating to the activities covered by the Act and this part available to the public in accordance with the Freedom of Information Act, 5 U.S.C. 552, and 43 CFR Part 2.

(b) The Department reserves the right to disclose any data and information obtained as a result of carrying out exploratory activities and submitted by a permittee or a third party and any other information submitted by a permittee or a third party which may

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be exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. 552, to an agent or third party in order to carry out the Department's statutory authorities. When practicable, the Department shall notify the permittee who provided the data or information of its intent to disclose the data or information to an agent or third party. Prior to any such disclosure, the recipient shall be required to execute a written commitment not to transfer or to otherwise disclose any data or information to anyone without the express consent of the Department. The recipient shall be liable for any unauthorized use by or disclosure of such data or information to other third parties.

(c) The Department reserves the right to disclose upon proper request any processed, analyzed and interpreted data and information and any other confidential information to the State of Alaska, to the Congress and any committee or subcommittee of the Congress having jurisdiction over the refuge or this exploration program, and to any part of the Executive and Judicial Branches of the United States for official use. The recipient shall be responsible for maintaining the confidentiality of such data and information in accordance with the Act.

(d) Commercial use by any person of data or information obtained as a result of carrying out exploratory activities and disclosed pursuant to this section is prohibited. No person shall obtain access from the Department, pursuant to paragraph (a) of this section, to any data or information obtained as a result of carrying out exploratory activities and submitted by the permittee or a third party until such person provides the Department with a statement certifying that person's awareness of the prohibition contained in this paragraph and the disqualification stated in the first sentence of § 37.4(b).

APPENDIX I—LEGAL DESCRIPTION OF THE COASTAL PLAIN, ARCTIC NATIONAL WILDLIFE REFUGE, ALASKA

Beginning at the meander corner of section 35 on the First Standard Parallel North on the line of mean high water on the left bank of the Canning River, T. 5 N., R. 23 E., Umiat Meridian;

Thence easterly, along the First Standard Parallel North, approximately 40¾ miles to the closing corner of T. 4 N., Rs. 30 and 31 E., Umiat Meridian;

Thence southerly, between Rs. 30 and 31 E., approximately 6 miles to the corner of Tps. 3 and 4 N., Rs. 33 and 34 E., Umiat Meridian;

Thence easterly, between Tps. 3 and 4 N., approximately 18 miles to the corner of Tps. 3 and 4 N., Rs. 33 and 34 E., Umiat Meridian;

Thence southerly, between Rs. 33 and 34 E., approximately 6 miles to the corner of Tps. 2 and 3 N., Rs. 33 and 34 E., Umiat Meridian;

Thence easterly, between Tps. 2 and 3 N., approximately 21 miles to the meander corner of sections 4 and 33, on the line of mean high water on the left bank of the Aichilik River, Tps. 2 and 3 N., R. 37 E., Umiat Meridian;

Thence northeasterly, along the line of mean high water on the left bank of the Aichilik River, approximately 32 miles to a point at the line of mean high tide of the Beaufort Lagoon, located in section 28, T. 6 N., R. 40 E., Umiat Meridian;

Thence on an approximate forward bearing of N. 65 degrees E., approximately 7,600 feet to a point on the northerly boundary of the Arctic National Wildlife Refuge located in section 22, T. 6 N., R. 40 E., Umiat Meridian at the line of extreme low tide;

Thence northwesterly, along the northerly boundary of the Arctic National Wildlife Refuge at the line of extreme low tide on the seaward side of all offshore bars, reefs and islands, approximately 28 miles, to a point in section 33, T. 9 N., R. 36 E., that is due north of the corner of T. 8 N., Rs. 36 and 37 E., Umiat Meridian;

Thence due South, approximately ¾ mile to the corner of T. 8 N., Rs. 36 and 37 E., Umiat Meridian;

Thence southerly between Rs. 36 and 37 E., approximately 3 miles to the corner of sections 13, 18, 19, and 24, T. 8. N., Rs. 36 and 37 E., Umiat Meridian;

Thence westerly, between sections 13 and 24, approximately 1 mile to the corner of sections 13, 14, 23 and 24, T. 8. N., R. 36 E., Umiat Meridian;

Thence northerly, between sections 13 and 14, approximately 1 mile to the corner of sections 11, 12, 13 and 14, T. 8. N., R. 36 E., Umiat Meridian;

Thence westerly, between sections 11 and 14, 10 and 15, 9 and 16, 8 and 17, approximately 4 miles to the corner of sections 7, 8, 17 and 18, T. 8 N., R. 36 E., Umiat Meridian;

Thence southerly, between sections 17 and 18, 19 and 20, 29 and 30 to the corner of sections 29, 30, 31 and 32, T. 8. N., R. 36 E., Umiat Meridian;

Thence westerly, between sections 30 and 31, approximately 1 mile to the corner of sections 25, 30, 31 and 36, T. 8. N., Rs. 35 and 36 E., Umiat Meridian;

Thence southerly, between sections 31 and 36, approximately 1 mile to the corner of Tps. 7 and 8 N., Rs. 35 and 36 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 1 mile to the corner of sections 1, 2, 35 and 36, Tps. 7 and 8 N., R. 35 E., Umiat Meridian;

Thence Northerly, between sections 35 and 36 and 25 and 26, 23 and 24, approximately 3 miles to the corner of sections 13, 14, 23 and 24, T. 8 N., R. 35 E., Umiat Meridian;

Thence westerly, between sections 14 and 23, 15 and 22, 16 and 21, 17 and 20, 18 and 19, 13 and 24, 14 and 23, 15 and 22, 16 and 21, 17 and 20, approximately 10 miles to the corner of sections 17, 18, 19 and 20, T. 8 N., R. 34 E., Umiat Meridian;

Thence northerly, between sections 17 and 18, approximately 1 mile to the corner of sections 7, 8, 17 and 18, T. 8 N., R. 34 E., Umiat Meridian;

Thence westerly, between sections 7 and 18, approximately 1 mile to the corner of sections 7, 12, 13 and 18, T. 8 N., Rs. 33 and 34 E., Umiat Meridian;

Thence southerly, between Rs. 33 and 34 E., approximately 1 mile to the corner of sections 13, 18, 19 and 24, T. 8 N., Rs. 33 and 34 E., Umiat Meridian;

Thence westerly, between sections 13 and 24, 14 and 23, 15 and 22, approximately 3 miles to the corner of sections 15, 16, 21 and 22, T. 8 N., R. 33 E., Umiat Meridian;

Thence southerly, between sections 21 and 22, approximately 1 mile to the corner of sections 21, 22, 27 and 28, T. 8 N., R. 33 E., Umiat Meridian;

Thence westerly, between sections 21 and 28, approximately one mile to the corner of sections 20, 21, 28 and 29, T. 8 N., R. 33 E., Umiat Meridian;

Thence southerly, between sections 28 and 33, 29 and 32, approximately 2 miles to the corner of sections 4, 5, 32 and 33, Tps. 7 and 8 N., R. 33 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 2 miles to the corner of Tps. 7 and 8 N., Rs. 32 and 33 E., Umiat Meridian;

Thence southerly, between section 1 and 6 approximately 1 mile to the corner of sections 1, 6, 7, and 12, T. 7 N., Rs. 32 and 33 E., Umiat Meridian;

Thence westerly, between sections 1 and 12, approximately 1 mile to the corner of sections 1, 2, 11 and 12, T. 7 N., R. 32 E., Umiat Meridian;

Thence northerly, between sections 1 and 2, 35 and 36, approximately 2 miles to the corner of sections 25, 26, 35 and 36, T. 8 N., R. 32 E., Umiat Meridian;

Thence westerly, between sections 26 and 27, 34 and 35, approximately 2 miles to the corner of sections 27, 28, 33 and 34, T. 8 N., R. 32 E., Umiat Meridian;

Thence southerly, between sections 33 and 34, approximately one mile to the corner of sections 3, 4, 33 and 34, Tps. 7 and 8 N., R. 32 E., Umiat Meridian;

Thence westerly, between Tps. 7 and 8 N., approximately 3 miles to the corner of Tps. 7 and 8 N., Rs. 31 and 32 E., Umiat Meridian;

Thence northerly, between ranges 31 and 32 E., approximately 3½ miles to a point on the northerly boundary of the Arctic National Wildlife Refuge at the line of extreme low tide located between sections 13 and 18, T. 8 N., Rs. 31 and 32 E., Umiat Meridian;

Thence westerly, along the northerly boundary of the Arctic National Wildlife Refuge approximately 57 miles along the line of extreme low water of the Arctic Ocean, including all offshore bars, reefs, and islands, to the most westerly tip of the most northwesterly island, westerly of Brownlow Point, section 6, T. 9 N., R. 25 E., Umiat Meridian;

Thence on an approximate forward bearing of S. 56½ degree W. approximately 3¼ miles to the mean high water line of the extreme west bank of the Canning River in section 15, T. 9 N., R. 24 E., Umiat Meridian;

Thence southerly, along the mean high water line of the west bank of the Canning River approximately 32 miles to the meander corner on the First Standard Parallel North at a point on the southerly boundary of section 35, T. 5 N., R. 23 E., Umiat Meridian, the point of beginning.

[48 FR 16858, Apr. 19, 1983; 49 FR 7570, Mar. 1, 1984]

SUBCHAPTER D—MANAGEMENT OF WILDLIFE RESEARCH AREAS

PART 60—PATUXENT WILDLIFE RESEARCH CENTER

Sec.
60.1 Public use policy.
60.2 Emergency closure.
60.3 Restricted or prohibited acts.
60.4 Enforcement provisions.
60.5 Public access and use.
60.6 Land use management.
60.7 Range and feral animal management.
60.8 Wildlife species management.
60.9 Public hunting in aid of research.
60.10 Public sport fishing in aid of research.
60.11 Special regulations; hunting and sport fishing.

AUTHORITY: Sec. 10, 45 Stat. 1224, as amended; 16 U.S.C. 715i; 80 Stat. 926.

SOURCE: 31 FR 16033, Dec. 15, 1966, unless otherwise noted.

§ 60.1 Public use policy.

The primary purpose of the Patuxent Wildlife Research Center is to provide an outdoor laboratory and other facilities for conducting investigations, tests, and experiments on wildlife diseases, populations, and habitat as a means of providing a sound basis for the administration and management of wildlife resources. In general, public uses of the research center are restricted to those which will contribute to the projects being conducted thereon. Public hunting, fishing, trapping, and recreational activities not provided for in §§ 60.9 and 60.10, are considered to be detrimental to the fulfillment of the objectives of the center.

§ 60.2 Emergency closure.

All or any part of the Patuxent Wildlife Research Center may be closed to public access and use in the event of an emergency endangering life or property.

§ 60.3 Restricted or prohibited acts.

The restricted or prohibited acts enumerated in Part 26 of this chapter are equally applicable to the Patuxent Wildlife Research Center with the exception of §§ 26.5 and 26.6 of this chapter, relating to hunting and fishing, which are treated separately in this part.

§ 60.4 Enforcement provisions.

The enforcement provisions set forth in Part 27 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.5 Public access and use.

The public access and use provisions set forth in Part 28 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.6 Land use management.

The land use management provisions set forth in Part 29 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.7 Range and feral animal management.

The range and feral animal management provisions set forth in Part 30 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.8 Wildlife species management.

The wildlife species management provisions set forth in Part 31 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.9 Public hunting in aid of research.

The research center may be opened to public hunting, under such conditions and restrictions as may be required, when public hunting activities will facilitate the collection of reliable data for investigations, tests, or experiments. The hunting provisions set forth in Part 32 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.10 Public sport fishing in aid of research.

The research center may be opened to public sport fishing, under such conditions and restrictions as may be required, when public sport fishing activities will facilitate the collection of reliable data for investigations, tests, or experiments. The sport fishing provisions set forth in Part 33 of this chapter are equally applicable to the Patuxent Wildlife Research Center.

§ 60.11 Special regulations; hunting and sport fishing.

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 60.11 see the List of CFR Sections Affected in the Finding Aids section of this volume.

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SUBCHAPTER E—MANAGEMENT OF FISHERIES CONSERVATION AREAS

PART 70—NATIONAL FISH HATCHERIES

Sec.

70.1 Purpose.
70.2 Administrative provisions.
70.3 State cooperation in national fish hatchery area management.
70.4 Prohibited acts.
70.5 Enforcement, penalty, and procedural requirements for violations of Parts 25, 26, and 27.
70.6 Public entry and use.
70.7 Land-use management.
70.8 Range and feral animal management.
70.9 Wildlife species management.

AUTHORITY: Sec. 4, 48 Stat. 402, as amended, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 664; 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668dd.

SOURCE: 45 FR 28723, Apr. 30, 1980, unless otherwise noted.

§ 70.1 Purpose.

All national fish hatchery areas are maintained for the fundamental purpose of the propagation and distribution of fish and other aquatic animal life and managed for the protection of all species of wildlife.

§ 70.2 Administrative provisions.

The provisions and regulations set forth in Part 25 of this chapter are equally applicable to national fish hatchery areas.

§ 70.3 State cooperation in national fish hatchery area management.

State cooperation may be enlisted in management programs including public hunting, fishing, and recreation. The details of these programs shall be mutually agreed upon by the Secretary and the head of the appropriate State agency in cooperative agreements executed for that purpose. Persons entering upon a national fish hatchery area shall comply with all regulations issued by the State agency under the terms of the cooperative agreement.

§ 70.4 Prohibited acts.

(a) The prohibited acts enumerated in Part 27 of this chapter are equally applicable to national fish hatchery areas.

(b) Fishing, taking, seining, or attempting to fish, take, seine, any fish, amphibian, or other aquatic animal on any national fish hatchery area is prohibited except as may be authorized under the provisions of Part 71 of this chapter.

(c) Hunting, killing, capturing, taking, or attempting to hunt, kill, capture, or take any animal on any national fish hatchery area is prohibited except as may be authorized in the provisions of Part 71 of this chapter.

(d) Disturbing spawning fish or fish preparing to spawn in ponds, raceways, streams, lakes, traps, and below traps, ladders, fish screens, fishways and racks is prohibited.

§ 70.5 Enforcement, penalty ,and procedural requirements for violations of Parts 25, 26, and 27.

The enforcement, penalty, and procedural requirement provisions set forth in Part 28 of this chapter are equally applicable to national fish hatchery areas.

§ 70.6 Public entry and use.

The public entry and use provisions set forth in Part 26 of this chapter are equally applicable to national fish hatchery areas.

EDITORIAL NOTE: For FEDERAL REGISTER citations to special regulations issued under § 70.6, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 70.7 Land-use management.

The land-use management provisions set forth in Part 29 of this chapter are equally applicable to national fish hatchery areas.

§ 70.8 Range and feral animal management.

The range and feral animal management provisions set forth in Part 30 of this chapter are equally applicable to national fish hatchery areas.

§ 70.9 Wildlife species management.

The wildlife species management provisions set forth in Part 31 of this chapter are equally applicable to national fish hatchery areas, except § 31.15 relating to hunting and fishing, which are treated separately in this part.

PART 71—HUNTING AND FISHING ON NATIONAL FISH HATCHERY AREAS

Subpart A—Hunting

Sec.
71.1 Opening of national fish hatchery areas to hunting.
71.2 General provisions.

Subpart B—Fishing

71.11 Opening of national fish hatchery areas to fishing.
71.12 General provisions.

Authority: Sec. 4, 48 Stat. 402, as amended, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 664, 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

Source: 31 FR 16033, Dec. 15, 1966, unless otherwise noted.

Subpart A—Hunting

§ 71.1 Opening of national fish hatchery areas to hunting.

National fish hatchery areas may be opened to hunting wildlife when such activity is not detrimental to the propagation and distribution of fish or other aquatic wildlife.

§ 71.2 General provisions.

The following provisions shall apply to public hunting on a national fish hatchery area:

(a) Each person shall secure and possess the required State license.

(b) Each person 16 years of age and older shall secure and possess a Migratory Bird Hunting Stamp while hunting migratory waterfowl.

(c) Each person shall comply with the applicable provisions of Federal laws and regulations including this subchapter and the current Federal Migratory Bird regulations.

(d) Each person shall comply with the applicable provisions of the laws and regulations of the State wherein any hatchery is located unless further restricted by Federal law or regulation.

(e) Each person shall comply with the terms and conditions authorizing access and use of the national fish hatchery area.

(f) Each person shall comply with the provisions of any special notices governing hunting on the national fish hatchery area. Such special notices will be posted throughout the area and will be available at the headquarters of the fish hatchery to which they relate.

(1) Special notices are issued only after the announcement of applicable annual State and Federal hunting regulations.

(2) Special notices may contain the following items:

(i) Wildlife species which may be hunted;

(ii) Seasons;

(iii) Bag limits;

(iv) Methods of hunting;

(v) Description of areas open to hunting;

(vi) Other provisions as required.

(3) Special notices will not liberalize existing State law or regulations.

(4) Special notices may be amended as needed to meet management responsibilities for the area.

Subpart B—Fishing

§ 71.11 Opening of national fish hatchery areas to fishing.

National fish hatchery areas may be opened to sport fishing when such activity is not detrimental to the propagation and distribution of fish or other aquatic animal life.

§ 71.12 General provisions.

The following provisions shall apply to public sport fishing on a national fish hatchery area:

(a) Each person shall secure and possess the required State license.

(b) Each person shall comply with the applicable provisions of Federal law and regulation including this subchapter.

(c) Each person shall comply with the applicable provisions of the laws

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and regulations of the State wherein any area is located unless the same are further restricted by Federal law or regulation.

(d) Each person shall comply with the terms and conditions authorizing access and use of the national fish hatchery area.

(e) Each person shall comply with the provisions of any special notices governing fishing on the national fish hatchery area. Such special notices will be posted throughout the area and will be available at the headquarters of the fish hatchery to which they relate.

(1) Special notices are issued only after announcement of the applicable annual State fishing regulation.

(2) Special notices may contain the following items:

(i) Species of fish which may be taken;

(ii) Seasons;

(iii) Creel limits;

(iv) Method of fishing;

(v) Description of areas open to fishing;

(vi) Other provisions as required.

(3) Special notices will not liberalize existing State law or regulations.

(4) Special notices may be amended as needed to meet management responsibilities for the area.

SUBCHAPTER F—FEDERAL AID TO STATES IN FISH AND WILDLIFE RESTORATION

PART 80—ADMINISTRATIVE REQUIREMENTS, FEDERAL AID IN FISH AND FEDERAL AID IN WILDLIFE RESTORATION ACTS

Sec.
80.1 Definitions.
80.2 Eligibility.
80.3 Assent legislation.
80.4 Diversion of license fees.
80.5 Eligible undertakings.
80.6 Prohibited activities.
80.7 Appeals.
80.8 Availability of funds.
80.9 Notice of desire to participate.
80.10 Hunting and fishing license certification.
80.11 Submission of proposals.
80.12 Cost sharing.
80.13 Substantiality in character and design.
80.14 Application of Federal Aid funds.
80.15 Allowable costs.
80.16 Federal Aid payments.
80.17 Maintenance.
80.18 Responsibilities.
80.19 Records.
80.20 Land control.
80.21 Assurances.
80.22 Audits.
80.23 Allocation of funds between marine and freshwater fishery projects.
80.24 Recreational boating access facilities.
80.25 Multiyear financing under the Federal Aid in Sport Fish Restoration Program.

AUTHORITY: Federal Aid in Fish Restoration Act (16 U.S.C. 777i) and Federal Aid in Wildlife Act (16 U.S.C. 669i).

SOURCE: 47 FR 22539, May 25, 1982, unless otherwise noted.

NOTE: The information collection requirements in this part have been approved by the Office of Management and Budget under control number 1018-0048.

§ 80.1 Definitions.

As used in this part, terms shall have the following meanings:

(a) *The Federal Aid Acts or the Acts.* The Federal Aid in Wildlife Restoration Act of September 2, 1937, as amended (50 Stat. 917; 16 U.S.C. 669-669i), and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, as amended (64 Stat. 430; 16 U.S.C. 777-777k).

(b) *State.* Any State of the United States; the territorial areas of Guam, the Virgin Islands, and American Samoa; the Commonwealth of Puerto Rico, the District of Columbia, and the Commonwealth of the Northern Mariana Islands.

(c) *State fish and wildlife agency.* The agency or official of a State designated under State law or regulation to carry out the laws of the State in relation to the management of fish and wildlife resources of the State. Such an agency or official which is also designated to exercise collateral responsibilities, e.g., State Department of Natural Resources, shall be considered the State fish and wildlife agency only when exercising the responsibilities specific to the management of the fish and wildlife resources of the State.

(d) *Secretary.* The Secretary of the Interior or his designated representative.

(e) *Director.* The Director of the U.S. Fish and Wildlife Service, or his designated representative. The Director serves as the Secretary's representative in matters relating to the administration and execution of the Federal Aid Acts.

(f) *Regional Director.* The Regional director of the U.S. Fish and Wildlife Service, or his designated representative.

(g) *Federal Aid Manual.* The publication of the U.S. Fish and Wildlife Service which contains policies, standards and procedures required for participation in the benefits of the Acts.

(h) *Project.* A program of related undertakings necessary to fulfill a defined need which is consistent with the purposes of the Act.

(i) *Comprehensive fish and wildlife management plan.* A document describing the State's plan for meeting the long-range needs of the public for fish and wildlife resources, and the system for managing the plan.

(j) *Federal Aid Funds.* Funds provided under Federal Aid Acts.

(k) *Resident angler.* A resident angler is one who fishes within the same State where legal residence is maintained.

(l) *Common horsepower.* Common horsepower is defined as any size motor that can be reasonably accommodated on the body of water slated for development.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.2 Eligibility.

Participation in the benefits of the Acts is limited to State fish and wildlife agencies as specified below:

(a) Federal Aid in Sport Fish Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Comonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

(b) Federal Aid in Wildlife Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands; except that the benefits afforded by section 4(b) of the Act relating to hunter education projects are limited to the 50 States.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.3 Assent legislation.

A State may participate in the benefits of the Act(s) only after it has passed legislation which assents to the provisions of the Acts and has passed laws for the conservation of fish and wildlife including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than administration of the fish and wildlife agency. Subsequent legislation which amends these state laws shall be subject to review by the Secretary. If the legislation is found contrary to the assent provisions, the State shall become ineligible.

§ 80.4 Diversion of license fees.

Revenues from fees paid by hunters and sports fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency. Administration of the State fish and wildlife agency includes only those functions of such an organization in exercising its authorities and responsibilities to manage the fish and wildlife resources of the State.

(a) A diversion of license fees occurs when a State fish and wildlife agency, through legislation or otherwise:

(1) Loses control of the expenditure of any portion of its license revenues, or

(2) Loses control of capital assets (or income therefrom) derived from license revenues, or

(3) Expends license revenues for any purpose other than administration of the State fish and wildlife agency.

(b) If a diversion of license fees occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Control of expenditure or assets is returned, and

(2) An amount equal to license revenues or the current market value of assets diverted is returned.

(c) Federal funds obligated for projects approved prior to the date a diversion is declared remain available for expenditure on such projects without regard to the intervening period of the State's ineligibility.

§ 80.5 Eligible undertakings.

The following are eligible for funding under the Acts:

(a) *Federal Aid in Wildlife Restoration Act.* (1) Projects having as their purpose the restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of and benefits from these resources.

(2) Projects having as their purpose the education of hunters and archers in the skills, knowledges, and attitudes necessary to be a responsible hunter or archer.

(b) *Federal Aid in Sport Fish Restoration Act.* (1) Projects having as their purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for public use and benefits from these resources. Sport fish are limited to aquatic, gill-breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation.

(2) Additional funds resulting from expansion of the Sport Fish Restoration Program must be added to existing State fishery program funds available from traditional sources and not as a substitute therefor.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.6 Prohibited activities.

The following are not eligible for funding under the Acts, except when necessary for the accomplishment of project purposes as approved by the regional director.

(a) Law enforcement activities conducted by the State to enforce the fish and game regulations.

(b) Public relations activities conducted to promote the State fish and wildlife agency.

§ 80.7 Appeals.

Any difference of opinion over the eligibility of proposed activities or differences arising over the conduct of work may be appealed to the Director. Final determination rests with the Secretary.

§ 80.8 Availability of funds.

Funds are available to a State for obligation or expenditure during the fiscal year for which they are apportioned and until the close of the succeeding fiscal year. For the purpose of this section, obligation of apportioned funds occurs when a project agreement is signed by the regional director.

§ 80.9 Notice of desire to participate.

Any State fish and wildlife agency desiring to avail itself of the benefits of the Acts shall notify the Secretary within 60 days after it has received a certificate of apportionment of funds available to the State. Notification to the Secretary may be accomplished by either of the following methods. In either method, the document must be signed by a State official authorized to commit the State to participation under the Act(s).

(a) Submitting to the regional director within the 60-day period a letter stating the desire of the State to participate in the Act(s); or,

(b) Having an approved Application for Federal Assistance which contains plans for the use of Federal Aid funds during the period of the apportionment.

§ 80.10 Hunting and fishing license certification.

(a) Information concerning the number of persons holding paid licenses to hunt and the number of persons holding paid licenses to fish for sport or recreation in the State in the preceding year shall be furnished upon request of the Director by the fish and wildlife agency of each State on forms furnished by the Fish and Wildlife Service.

(b) This information shall be certified as accurate by the director of the State fish and wildlife agency. When requested by the Director, evidence used in determining accuracy of the certification shall also be furnished.

(c) License holders shall be counted over a period of 12 months; the calendar year, fiscal year, or other licensing period may be used provided it is consistent from year to year in each State. In determining licenses which are eligible for inclusion, the following guidelines shall be observed.

(1) Trapping licenses, commercial licenses, and other licenses which are not for the express purpose of permitting the holder to hunt or fish for sport or recreation shall not be included.

(2) Licenses which do not return net revenue to the State shall not be included. To qualify as a paid license, the fee must produce revenue for the State. Net revenue is any amount returned to the State after deducting agent or sellers fees and the cost for printing, distribution, control or other costs directly associated with the issuance of each license.

(3) Licenses valid for more than one year, either a specific or indeterminate number of years, may be counted in each of the years for which they are valid; provided that:

(i) The net revenue from each license is commensurate with the period for which hunting or fishing privileges are granted, and

(ii) Sampling or other techniques are used to determine whether the licensee remains a license holder in the year of certification.

(4) Combination fishing and hunting licenses (a single license which permits the holder both to hunt and fish) shall be included in the determination of both the number of paid hunting license holders and the number of persons holding paid licenses to fish for sport or recreation.

(5) Some licensing systems require or permit an individual to hold more than one license to hunt or to fish in a State. Such an individual shall not be counted more than once as a hunting or fishing license holder. The State fish and wildlife director, in certifying license information to the Director, is responsible for eliminating duplication or multiple counting of single individuals in the figures which he certifies. Sampling and other statistical techniques may be utilized by the certifying officer for this purpose.

(Approved by the Office of Management and Budget under control number 1018-0007)

§ 80.11 Submission of proposals.

A State may make application for use of funds apportioned under the Acts by submitting to the regional director either a comprehensive fish and wildlife management plan or project proposal.

(a) Each application shall contain such information as the regional director may require to determine if the proposed activities are in accordance with Acts, the provisions of this part, and the standards contained in the Federal Aid Manual.

(b) Each application and amendments of scope shall be submitted to the State Clearinghouse as required by Office of Management and Budget (OMB) Circular A-95 and by State Clearinghouse requirements.

(c) Applications must be signed by the director of the State fish and wildlife agency or the official(s) delegated to exercise the authority and responsibilities of the State's director in committing the State to participation under the Acts. The director of each State fish and wildlife agency shall notify the regional director, in writing, of the official(s) authorized to sign Federal Aid documents, and any changes in such authorizations.

§ 80.12 Cost sharing.

Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the project agreement, whichever is less, except that the non-Federal cost sharing for the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa shall not exceed 25 percent and may be waived at the discretion of the regional director.

(a) A minimum Federal participation of 10 percent of the estimated costs is required as a condition of approval.

(b) The non-Federal share of project costs may be in the form of cash or in-kind contributions. The allowability and evaluation of in-kind contributions are subject to the policies and standards prescribed in Office of Management and Budget (OMB) Circular A-102.

(c) The non-Federal share of project costs may not be derived from other Federal funds, except as authorized by specific legislation.

§ 80.13 Substantiality in character and design.

All projects proposed for funding under the Acts must be substantial in character and design. A substantial project (for fish and wildlife purposes) is one which:

(a) Identifies and describes a need within the purposes of the relevant Act to be utilized;

(b) Identifies the objectives to be accomplished based on the stated need;

(c) Utilizes accepted fish and wildlife conservation and management principles, sound design, and appropriate procedures; and

(d) Will yield benefits which are pertinent to the identified need at a level commensurate with project costs.

§ 80.14 Application of Federal aid funds.

(a) Federal Aid funds shall be applied only to activities or purposes approved by the regional director. If otherwise applied, such funds must be replaced or the State becomes ineligible to participate.

(b) Real property acquired or constructed with Federal Aid funds must continue to serve the purpose for which acquired or constructed.

(1) When such property passes from management control of the fish and wildlife agency, the control must be fully restored to the State fish and wildlife agency or the real property must be replaced using non-Federal Aid funds. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may have a reasonable time, up to three years from the date of notification by the regional director, to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the regional director, the property shall be used or disposed of as provided by Attachment N of OMB Circular A-102.

(c) Federal Aid funds shall not be used for the purpose of producing income. However, income producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities shall be accounted for in the project records and disposed of as directed by the Director.

§ 80.15 Allowable costs.

Allowable costs are limited to those which are necessary and reasonable for accomplishment of approved project purposes, and are in accordance with the cost principles of OMB Circular A-87.

(a) All costs must be supported by source documents or other records as necessary to substantiate the application of funds. Such documentation and records are subject to review by the Secretary to determine the allowability of costs.

(b) Costs incurred prior to the effective date of the project agreement are allowable only when specifically provided for in project agreement.

(c) Projects or facilities designed to include purposes other than those eligible under the pertinent Act shall provide for the allocation of costs among the various purposes. The method used to allocate costs shall produce an equitable distribution of costs based on the relative uses or benefits provided.

(d) Administrative costs in the form of overhead or indirect costs for State central services outside of the State fish and wildlife agency must be in accord with an approved cost allocation plan and shall not exceed in any one fiscal year three percentum of the annual apportionment.

(e) Not more than 10 per centum of the annual amount apportioned to each State under provisions of the Federal Aid in Sport Fish Restoration Act may be obligated on projects for aquatic education.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.16 Federal aid payments.

Payments shall be made for the Federal share of allowable costs incurred by the State in accomplishing approved projects.

(a) Requests for payments shall be submitted on forms furnished by the regional director.

(b) Payments shall be made only to the office or official designated by the State fish and wildlife agency and authorized under the laws of the State to receive public funds for the State.

(c) All payments are subject to final determination of allowability based on audit. Any overpayments made to the State shall be recovered as directed by the region director.

(d) The regional director may withhold payments pending receipt of all required reports or documentation for the project.

§ 80.17 Maintenance.

The State is responsible for maintenance of all capital improvements acquired or constructed with Federal Aid funds throughout the useful life of

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each improvement. Costs for such maintenance are allowable when provided for in approved projects. The maintenance of improvements acquired or constructed with non-Federal Aid funds are allowable costs when such improvements are necessary to accomplishment of project purposes as approved by the regional director, and when such costs are otherwise allowable by law.

§ 80.18 Responsibilities.

In the conduct of activities funded under the Acts, the State is responsible for:

(a) The supervision of each project to assure it is conducted as provided in the project documents, including:

(1) Proper and effective use of funds.

(2) Maintenance of project records.

(3) Timely submission of reports.

(4) Regular inspection and monitoring of work in progress.

(b) The selection and supervision of project personnel to assure that:

(1) Adequate and competent personnel are available to carry the project through to a satisfactory and timely completion.

(2) Project personnel perform the work to ensure that time schedules are met, projected work units are accomplished, other performance objectives are being achieved, and reports are submitted as required.

(c) The accountability and control of all assets to assure that they serve the purpose for which acquired throughout their useful life.

(d) The compliance with all applicable Federal, State, and local laws.

(e) The settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into.

§ 80.19 Records.

The State shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Federal Aid Manual and OMB Circular A-102.

(a) Financial, supporting documents, and all other records pertinent to a project shall be retained for a period of three years after submission of the final expenditure report on the project. If any litigation claim, or audit was started before the expiration of the three-year period, the records shall be retained until the resolution is completed. Records for nonexpendable property shall be retained for a period of three years following final disposition of the property.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the State.

§ 80.20 Land control.

The State must control lands or waters on which capital improvements are made with Federal Aid funds. Controls may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 80.21 Assurances.

The State must agree to and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds under the Acts. The Secretary shall have the right to review or inspect for compliance at any time. Upon determination of noncompliance, the Secretary may terminate or suspend those projects in noncompliance, or may declare the State ineligible for further participation in program benefits until compliance is achieved.

§ 80.22 Audits.

The State is required to conduct an audit at least every two years in accordance with the provisions of Attachment P of OMB Circular A-102. Failure to conduct audits as required may result in withholding of grant payments or such other sanctions as the Secretary may deem appropriate.

[49 FR 30074, July 26, 1984]

§ 80.23 Allocation of funds between marine and freshwater fishery projects.

(a) Each coastal State, to the extent practicable, shall equitably allocate those funds specified by the Secretary, in the apportionment of Federal Aid in Sport Fish Restoration funds, between projects having recreational benefits for marine fisheries and projects having recreational benefits for freshwater fisheries.

(1) Coastal States are: Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, Washington, Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) The allocation and subsequent obligation of funds between projects that benefit marine and freshwater interests will be in the same proportion as the estimated number of resident marine anglers and resident freshwater anglers, respectively, bears to the estimated number of total resident anglers in the State. The number of marine and freshwater anglers shall be based on a statistically reliable method for determining the relative distribution of resident anglers in the State between those that fish in saltwater and those that fish in freshwater.

(3) To the extent practicable means that the amounts allocated of each year's apportionment may not necessarily result in an equitable allocation for each year. However, the amounts allocated over a period, not to exceed 3 years, must result in an equitable allocation between marine and freshwater fisheries projects. Ongoing marine project costs can be applied toward the State's saltwater allocation.

(4) Failure to provide for an equitable allocation may result in the State's becoming ineligible to participate in the use of those funds specified, until such time as the State demonstrates to the satisifaction of the Director that funds will be allocated equitably.

[50 FR 21448, May 24, 1985]

§ 80.24 Recreational boating access facilities.

The State shall allocate at least 10 percentum of each annual apportionment under Federal Aid in Sport Fish Restoration Act for recreational boating access facilities. All facilities constructed, acquired, developed, renovated, or maintained (including those existing structures for which maintenance is provided) must be for the purpose of providing additional, improved, or safer access of public waters for boating recreation as part of the State's effort for the restoration, management, and public use of sport fish. Though a broad range of access facilities and associated amenities can qualify for funding under the 10 percent provision, power boats with common horsepower ratings must be accommodated, and, in addition, the State must make reasonable efforts to accommodate boats with larger horsepower ratings if they would not conflict with aquatic resources management. Any portion of the 10 percent set aside for the above purposes that remains unexpended or unobligated after two years shall revert to FWS.

[50 FR 21448, May 24, 1985]

§ 80.25 Multiyear financing under the Federal Aid in Sport Fish Restoration Program.

(a) States may finance the acquisition of lands or interests in lands including water rights and the construction of structures and facilities utilizing multiyear funding as authorized by the Federal Aid in Sport Fish Restoration Act in two ways:

(1) States may finance the entire cost of the acquisition or construction from a non-Federal funding source and claim Federal Aid reimbursement in succeeding apportionment years according to a scheduled reimbursement plan.

(2) States may negotiate an installment purchase or contract whereby periodic and specified amounts are paid to the seller or contractor and Federal Aid reimbursements are allowed for each payment from any apportionment year current at the time of payment.

(b) Multiyear financing is subject to the following conditions:

(1) Projects must provide for prospective use of funds and be approved by the Regional Director in advance of the State's obligation or commitment

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to purchase property or contract for structures or facilities.

(2) States must agree to complete the project even if Federal funds are not available. In the event the project is not completed, those Federal funds expended but not resulting in commensurate sport fishery benefits must be recovered by the State and reallocated to approved State sport fish projects.

(3) Project proposals must include a complete schedule of payments to complete the project.

(4) No costs for interest or financing shall be claimed for reimbursement.

[50 FR 21448, May 24, 1985]

PART 81—CONSERVATION OF ENDANGERED AND THREATENED SPECIES OF FISH, WILDLIFE, AND PLANTS—COOPERATION WITH THE STATES

Sec.

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AUTHORITY: Endangered Species Act of 1973, sec. 6(h), 87 Stat. 884, 16 U.S.C. 1531-43, Pub. L. 93-205.

SOURCE: 40 FR 47509, Oct. 9, 1975, unless otherwise noted.

§ 81.1 Definitions.

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Agreements.* Signed documented statements of the actions to be taken by the State(s) and the Secretary in furthering the purposes of the Act. They include:

(1) A Cooperative Agreement entered into pursuant to section 6(c) of the Endangered Species Act of 1973 and § 81.2 of this part.

(2) A Project Agreement which includes a statement as to the actions to be taken in connection with the conservation of endangered or threatened species, benefits derived, cost of actions, and costs to be borne by the Federal Government and by the States.

(b) *Conserve, conserving, and conservation.* The use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Endangered Species Act of 1973 are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(c) *Endangered species.* Any species which is in danger of extinction throughout all or a significant portion of its range (other than a species of the Class Insecta as determined by the Secretary to constitute a pest whose protection under the provisions of The Endangered Species Act of 1973 would present an overwhelming and overriding risk to man).

(d) *Fish or wildlife.* Any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(e) *Plant.* Any member of the plant kingdom, including seeds, roots, and other parts thereof.

(f) *Program.* A State-developed set of goals, objectives, strategies, action, and funding necessary to be taken to promote the conservation and management of resident endangered or threatened species.

(g) *Secretary.* The Secretary of the Interior or his authorized representative.

(h) *Species.* This term includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

(i) *State.* Any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(j) *State agency.* The State agency or agencies, or other governmental entity or entities which are responsible for the management and conservation of fish or wildlife resources within a State.

(k) *Plan.* A course of action under which immediate attention will be given to a State's resident species determined to be endangered or threatened.

(l) *Threatened species.* Any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, as determined by the Secretary.

(m) *Project.* A plan undertaken to conserve the various species of fish and wildlife or plants facing extinction.

(n) *Act.* The Endangered Species Act of 1973, Pub. L. 93-205, 16 U.S.C. 1531 et seq.

(o) *Project segment.* An essential part or a division of a project, usually separated as a period of time, occasionally as a unit of work.

(p) *Resident species.* For the purposes of the Endangered Species Act of 1973, a species is resident in a State if it exists in the wild in that State during any part of its life.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31580, May 31, 1979; 49 FR 30074, July 26, 1984]

§ 81.2 Cooperation with the States.

The Secretary is authorized by the act to cooperate with any State which establishes and maintains an adequate and active program for the conservation of various endangered and threatened species. In order for a State program to be deemed an adequate and active program, the Secretary must find and reconfirm, on an annual basis, that under the State program, either:

(a) Authority resides in the State agency to conserve resident species of fish and wildlife or plants determined by the State agency or the Secretary to be endangered or threatened;

(b) The State agency has established an acceptable conservation program, consistent with the purposes and policies of the act, for all residents species of fish and wildlife or plants in the State which are deemed by the Secretary to be endangered or threatened; and has furnished a copy of such program together with all pertinent details, information, and data requested to the Secretary;

(c) The State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife or plants;

(d) The State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species; and

(e) Provisions are made for public participation in designating resident species of fish and wildlife or plants as endangered or threatened, or that under the State program: (1) The requirements set forth in paragraphs (c), (d), and (e) of this section are complied with concerning fish and wildlife and in paragraphs (c) and (e) of this section concerning plants, and plans are included under which immediate attention will be given to those resident species of fish and wildlife or plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to this paragraph shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) of the Endangered Species Act of 1973 with respect to the taking of any resident endangered or threatened species.

[41 FR 15016, Apr. 9, 1976, as amended at 44 FR 31580, May 31, 1979]

§ 81.3 Cooperative Agreement.

Upon determination by the Secretary that a State program is adequate and active and complies with § 81.2, the Secretary shall enter into an Agreement with the State. A Cooperative Agreement is necessary before a Project Agreement can be approved for endangered or threatened species projects. A cooperative agreement under § 81.2 must be reconfirmed annually to reflect new laws, species lists, rules and regulations, and programs, and to demonstrate that the program is still active and adequate. The Secretary, in determining which species are most urgently in need of a conservation program as provided for in § 81.2(e), shall apply the following criteria: (1) The degree of threat to the continued existence of the species; (2) the recovery potential of the species; (3) the taxonomic status, e.g., giving full species priority over subspecies or populations; and (4) such other relevent biological factors as determined appropriate.

[41 FR 15016, Apr. 9, 1976, as amended at 44 FR 31580, May 31, 1979]

§ 81.4 Allocation of funds.

The Secretary shall semi-annually allocate funds, appropriated for the purpose of carrying out Section 6, to various State programs using the following as the basis for his determination:

(a) The international commitments of the United States to protect endangered or threatened species;

(b) The readiness of a State to proceed with a conservation program consistent with the objectives and purposes of the Act;

(c) The number of endangered and threatened species within a State;

(d) The potential for restoring endangered and threatened species within a State; and

(e) The relative urgency to initiate a program to restore and protect an endangered or threatened species in terms of survival of the species.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31580, May 31, 1979]

§ 81.5 Information for the Secretary.

Before any Federal funds may be obligated for any project to be undertaken in a State, the State must have entered into a Cooperative Agreement with the Secretary pursuant to section 6(c) of the Act.

§ 81.6 Project Agreement.

(a) Subsequent to the establishment of a Cooperative Agreement pursuant to § 81.3, the Secretary may further agree with the States to provide financial assistance in the development and implementation of acceptable projects for the conservation of endangered and threatened species. Financial agreements will consist of an Application for Federal Assistance and a Project Agreement. Such agreements' continued existence, and continued financial assistance under such agreements, shall be contingent upon the continued existence of the Cooperative Agreement described in § 81.3 of this part.

(b) The Application for Federal Assistance will show the need for the project, the objectives, the expected benefits and results, the approach, the period of time necessary to accomplish the objectives, and both the Federal and State costs. All of a State's activities proposed for this Federal grant support will be incorporated in one or more project applications.

(c) To meet the requirements of the Act, the Application for Federal Assistance shall certify that the State agency submitting the project is committed to its execution and that is has been reviewed by the appropriate State officials and is in compliance with other requirements of the Office of Management and Budget Circular No. A-95 (as revised).

(d) The Project Agreement will follow approval of the Application for Federal Assistance by the Secretary. The mutual obligations by the cooperating agencies will be shown in this agreement executed between the State and the Secretary. An agreement shall cover the financing proposed in one project segment and the work items described in the documents supporting it.

(e) The form and content for both the Application for Federal Assistance and the Project Agreement are provided in the Federal Aid Manual.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31581, May 31, 1979]

§ 81.7 Availability of funds.

Funds allocated to a State are available for obligation during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. For the purpose of this section, obligation of allocated funds occurs when a Project Agreement is signed by the Secretary, or his authorized representative, attesting to his approval.

§ 81.8 Payments.

The payment of the Federal share of costs incurred in the conduct of activities included under a Project Agreement shall be in accordance with Treasury Circular 1075.

(a) Federal payments under the Act shall not exceed 75 percent of the program costs as stated in the agreement; except, the Federal share may be increased to 90 percent when two or more States having a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

(b) The State share of program costs may be in the form of cash or in-kind contributions, including real property, subject to standards established by the Secretary as provided in Office of Management and Budget Circular A-102.

(c) Payments under the Endangered Species Act, including such preliminary costs and expenses as may be incurred in connection with projects, shall not be made unless all documents that may be necessary or required in the administration of this Act shall have first been submitted to and approved by the Secretary. Payments shall be made for expenditures reported and certified by the State agencies. Payments shall be made only to the State office or official designated by the State agency and authorized under the laws of the State to receive public funds of the State.

(d) Vouchers and forms provided by the Secretary and certified as therein prescribed, showing amounts expended and the amount of Federal Aid funds claimed to be due on account thereof, shall be submitted to the Secretary by the State agency.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31581, May 31, 1979; 49 FR 30074, July 26, 1984]

§ 81.9 Assurances.

The State must assure and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds for projects under the Act in accordance with Office of Management and Budget Circular A-102.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31581, May 31, 1979]

§ 81.10 Submission of documents.

Papers and documents required by the Act or by regulations in this part shall be deemed submitted to the Secretary from the date of receipt by the Director of the U.S. Fish and Wildlife Service.

§ 81.11 Divergent opinions over project merits.

Any difference of opinion about the substantiality of a proposed project or appraised value of land to be acquired are considered by qualified representatives of the Secretary and the State. Final determination in the event of continued disagreement rests with the Secretary.

§ 81.12 Contracts.

The State may use its own regulations in obtaining services providing that they adhere to Federal laws and the requirements provided by Office of Management and Budget Circular A-102. The State is the responsible authority without recourse to the Secretary regarding settlement of contractual issues.

[40 FR 47509, Oct. 9, 1975, as amended at 44 FR 31581, May 31, 1979]

§ 81.13 Inspection.

Supervision of each project by the State shall include adequate and continuous inspection. The project will be subject to periodic Federal inspection.

§ 81.14 Comprehensive plan alternative.

In the event that the State elects to operate under a comprehensive fish and wildlife resource planning system, the Cooperative Agreement will be an attachment to the plan. No Application for Federal Assistance will be required since the documentation will be incorporated in the plan. However, the continued existence of the comprehensive plan, and Federal financing thereunder, will be contingent upon the continued existence of the Cooperative Agreement described in § 81.3, above.

§ 81.15 Audits.

The State is required to conduct an audit at least every two years in accordance with the provisions of Attachment P of OMB Circular A-102. Failure to conduct audits as required may result in withholding of grant payments or such other sanctions as the Secretary may deem appropriate.

[49 FR 30074, July 26, 1984]

PART 82—ADMINISTRATIVE PROCEDURES FOR GRANTS-IN-AID (MARINE MAMMAL PROTECTION ACT OF 1972)

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AUTHORITY: 16 U.S.C. 1361-1407, 86 Stat. 1027.

SOURCE: 40 FR 23281, May 29, 1975, unless otherwise noted.

Subpart A—Introduction

§ 82.1 Scope of regulations.

The regulations in this part are issued, pursuant to the authority of the Secretary in section 1380 of the Marine Mammal Protection Act, 16 U.S.C. 1361-1407 (Supp. II 1972), to provide procedures for the submission and review of applications and the award and administration of research grants, or other forms of financial assistance, to Federal or state agencies, public or private institutions, or other persons including any foreign governments for research relevant to the protection and conservation of marine mammals.

§ 82.2 Purpose of regulations.

The Marine Mammal Protection Act of 1972 (Pub. L. 92-552) authorizes appropriations, and confers authority upon the Secretary, subject to such terms and conditions as he deems necessary, and after review by the Marine Mammal Commission, to make grants, or provide other forms of financial assistance, for the purpose of undertaking research relevant to the protection and conservation of marine mammals. Research initiated pursuant to this authorization is to be directed toward increasing the available knowledge of the ecology and population dynamics of marine mammals and of the factors which bear upon their ability to reproduce themselves successfully, which information may be used for the purposes of increasing and maintaining the number of animals within species and populations of marine mammals at the optimum carrying capacity of their habitat.

§ 82.3 Supplementary information and procedures.

The regulations in this part are intended to provide for the maximum flexiblity and simplicity in the application and award of grants or other financial assistance and the minimum amount of Federal control in the conduct of the research and supervision of Federal funds, consistent with the anticipated level of appropriated funds and demand for such funds. With respect to grants to state or local governments these regulations are intended to implement and be read as consistent with Federal Management Circular 74-7, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," (FMC 74-7) 34 CFR Part 256, 39 FR 35787-35796, October 4, 1974, unless specifically noted otherwise. The standards and procedures set forth therein, and other referenced Federal management circulars, will, to the extent practical, govern other forms of financial assistance to state and local governments, public and private institutions and persons as well as grants to such institutions and persons. Other Federal regulations and sources of guidance potential applicants may find worthwhile to consult for information which may be helpful in applying and implementing research grants or other financial assistance under these regulations include: 34 CFR Part 211, Cost Sharing on Federal Research (FMC 73-3); 34 CFR Part 251, Audit of Federal Operations and Programs by Executive Branch Agencies, superseding OMB Circular No A-73, dated August 4, 1965; 34 CFR Part 252, Coordinating Indirect Cost Rates and Audit at Educational Institutions, (FMC 73-6); 34 CFR Part 253, Administration of College and University Grants (FMC 73-7); 34 CFR Part 254, Cost Principles for Educational Institutions (FMC 73-8); FMC 74-4, Cost Principles under Grants to State and Local Governments.

§ 82.4 Authority.

The Secretary of the Interior has delegated to the Director, Fish and Wildlife Service, his authority under the Marine Mammal Protection Act to enter into grants or other forms of financial assistance for research relevant to the protection and conservation of marine mammals covered by the Act excluding the order *Cetacea* and members, other than walruses, of the order *Pinnipedia.*

§ 82.5 Definitions.

As used in this part, terms shall have the meanings ascribed in this section.

(a) "Act" means the Marine Mammal Protection Act of 1972, 16 U.S.C. 1361-1407.

(b) "Cooperative Agreement" means the properly signed documentation, including the Application for Federal Assistance, which describes the project goals, the time schedule for achieving them, the estimated expenses to be incurred and the terms and conditions under which the research will be conducted, the totality of which constitutes the legally binding instrument between the Secretary and the grantee.

(c) "Grantee" means (1) any private person or entity, or (2) any officer, employee, agent, department, or instrumentality of the Federal Government, or any state or political subdivision thereof or any foreign government, participating in a cooperative agreement with the Secretary.

(d) "Marine Mammal" means any specimen of the following species, whether alive or dead, or any part thereof, including but not limited to, any raw, dressed, or dyed fur or skin:

Scientific name	Common name
Ursus maritimus	Polar bear.
Enhydra lutris	Sea Otter.
Odobenus rosmarus	Walrus.
Dugong dugong	Dugong.
Trichechus inunquis	West Indian manatee.
Trichechus manatus	West African manatee.
Trichechus senegalensis	Amazonian manatee.

NOTE: Common names given may be at variance with local usage; they are not required to be provided by the Act, and they have no legal significance.

(e) "Non-Federal interest" means any organization, association, institution, business, school, individual or group of individuals, state agency, municipality, or others outside the Federal Government which desires to participate within the terms of the Act.

(f) "Project" means any program for which an Application for Federal Assistance and a cooperative agreement have been approved and which provides for research in subjects which are relevant to the protection and conservation of marine mammals.

(g) "Secretary" means the Secretary of the Interior or his delegated representative.

(h) "State" means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the possessions of the United States, and the Trust Territory of the Pacific Islands.

(i) "State agency" means any department(s), commission(s), or officials(s), of a state empowered under its laws to administer the state program for marine mammals.

Subpart B—Application for Grants

§ 82.6 Submission of proposals.

(a) Preapplication forms may be submitted by any potential grantee in order to (1) establish communication between the Fish and Wildlife Service and the applicant; (2) to determine the applicant's eligibility; (3) determine how well the project can compete with applications from others; and (4) eliminate any proposals which have little or no chance for Federal funding before the applicant incurs significant expenditures for preparing an application. A notice of review action will be sent to the applicant within 45 days of the receipt of the preapplication form informing the applicant of the results of the review of the preapplication form. If the review cannot be completed within 45 days, the applicant will be informed by letter as to when the review will be completed.

(b) An Application for Federal Assistance for non-construction shall be submitted by all applicants for grants, however, an Application for Federal Assistance—Short Form may be utilized for single purpose and one-time grant applications for less than $10,000 not requiring clearing house approval, an environmental impact statement, or the relocation of persons, businesses, or farms.

(c) Copies of the applications described in paragraphs (a) and (b) of this section may be obtained from the Federal Aid Coordinator, State Fish and Game Agency, and the Director, U.S. Fish and Wildlife (Attention: Division of Cooperative Research), Washington, D.C. 20240. An original and two copies of the appropriate application forms should be submitted to the Director at this address. In order to allow sufficient time for processing, the Federal Assistance Application must be submitted by September 1 of the year preceding the fiscal year in which the research is contemplated. Any requests by grantees for changes, continuations, and supplements to approved grants must be submitted on the same form as the original application.

§ 82.7 Coordination with States.

If the proposed project is to be conducted within the territorial limits of a state, the Secretary shall not enter into an agreement with a non-Federal interest other than a State without first consulting with the State agency.

Subpart C—Administration

§ 82.8 Prosecution of work.

(a) The grantee shall pursue the agreed-upon objectives expeditiously, adhering to the procedures set forth in the Cooperative Agreement. Failure to do so or failure to provide timely and adequate reports shall be cause for the Secretary to withhold further reimbursements to the grantee until project commitments are satisfactorily met. All further disbursement of funds under the cooperative agreement may be terminated upon determination by the Secretary that satisfactory progress has not been maintained.

(b) All work shall be performed in accordance with applicable Federal, state, and local laws, including safety, health and sanitation laws, except that when state and local laws are in conflict with Federal laws or regulations, such Federal laws or regulations shall prevail.

§ 82.9 General information for the Secretary.

Before any Federal funds may be obligated for any project the grantee shall furnish to the Director such information regarding the authority of the grantee to participate in the benefits of the Act, such information of the type described in FMC 74-7 Attachment G, concerning the system to be used by the grantee for the financial management of grant funds, the state laws affecting marine mammals, and such other information as the Director may request.

(a) *Document signature.* The Application for Federal Assistance and the Cooperative Agreement must bear the signature of an official who is legally authorized to commit the prospective grantee to expediture of funds. The Secretary may, from time to time, request, and grantee shall furnish, information relating to the administration and maintenance of any project established under the Act.

§ 82.10 Payments to grantee.

Payments may be requested by the grantee at intervals of not less than 30 days as work described in the cooperative agreement progresses.

§ 82.11 Forms of vouchers.

Vouchers, on forms provided by the Secretary, showing amounts expended on each project, and the Federal portion claimed to be due on account thereof, shall be certified and submitted to the Director by the grantee.

§ 82.12 Permit requirements.

No work shall commence on a proposal funded under the provisions of 16 U.S.C. 1380 until all appropriate State and Federal permits have been applied for and issued.

§ 82.13 Ownership of property.

When property is acquired pursuant to the provisions of the Act, title to such property or interests therein shall be vested in the grantee as long as the property is used for the authorized purpose. When the property is no longer needed for such purpose, the Director and the grantee shall mutually agree regarding the assignment of title and any compensations consistent with the terms of Federal Management Circular 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 of this part.

§ 82.14 Inspection and audit.

(a) Supervision of each project shall be as specified in the initial cooperative agreement and shall include adequate and continuous inspection by the grantee. The project will be subject at all reasonable times to Federal inspection. The Director and the Comptroller General of the United States, or their duly authorized representatives, shall be given access by the grantee during regular business hours to any books, documents, papers, and records of the grantee which are pertinent to the project for the purposes of making audit, examination, excerpts, and transcripts.

(b) The State is required to conduct an audit at least every two years in accordance with the provisions of Attachment P of OMB Circular A-102. Failure to conduct audits as required may result in withholding of grant payments of such other sanctions as the Secretary may deem appropriate.

[40 FR 23281, May 29, 1975, as amended at 49 FR 30074, July 26, 1984]

§ 82.15 Record retention.

All records of accounts, and reports, with supporting documentation thereto, will be maintained by the grantee for a period of three years after submission of the final expenditure report, with the qualifications stated in FMC 74-7, Attachment C, paragraph 1.

§ 82.16 Reporting.

Performance reports and other specified reports shall be submitted to the Secretary by the grantee in accordance with requirements prescribed by FMC 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 of this part.

§ 82.17 Procurement.

Grantees may use their own procurement regulations which reflect applicable State and local laws, rules, and regulations, provided that procurements made with funds under the Act adhere to the standards set forth in FMC 74-7 or other appropriate referenced Federal Management Circulars cited in § 82.3 of this part.

§ 82.18 Officials not to benefit.

No member of, or delegate to, Congress, or Resident Commissioner, shall be admitted to any share or any part of an agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to an agreement made with a corporation for its general benefit.

§ 82.19 Patents and inventions.

Determination of the patent rights in any inventions or discoveries resulting from work under cooperative agreements entered into pursuant to the Act shall be governed by the "Government Patent Policy," President's Memorandum for Heads of Executive Departments and Agencies, August 23, 1971, and statement of government patent policy as printed in 36 FR 16889.

§ 82.20 Civil rights.

Each cooperative agreement shall be supported by a statement of assurance executed by the grantee providing that the project will be carried out in accordance with Title VI, non-discrimination in federally assisted programs, of the Civil Rights Act of 1964, 42 U.S.C. 2000d-2000d-4, and with the Secretary's regulations promulgated thereunder, 43 CFR Part 17.

§ 82.21 Copyrights.

Where research conducted under a grant issued pursuant to this part results in a book or other copyrightable material, the author or grantee, subject to the terms of the Cooperative Agreement, is encouraged to publish the work, but the Department of the Interior reserves a royalty free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes. Any publication by the grantee must bear in an appropriate place an acknowledgment of grant support under the Marine Mammal Act from the Department of the Interior. In addition, any publication must include a statement that the findings, conclusions, etc., do not necessarily represent the views of the Department of the Interior. At least two copies of any printed publications must be furnished to the U.S. Fish and Wildlife Service.

PART 83—RULES IMPLEMENTING THE FISH AND WILDLIFE CONSERVATION ACT OF 1980

Sec.

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AUTHORITY: The Fish and Wildlife Conservation Act of 1980, 16 U.S.C. 2901.

SOURCE: 47 FR 51142, Nov. 12, 1982, unless otherwise noted.

NOTE: The information collection requirement contained in this part has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned control number 1018-0048.

§ 83.1 Definitions.

As used in this part, the following terms mean:

(a) *Act.* The Fish and Wildlife Conservation Act of 1980, Pub. L. 96-366 (16 U.S.C. 2901, et seq.).

(b) *Conservation plan.* A plan for the conservation of fish and wildlife within a State which meets the requirements set forth in this part.

(c) *Designated State agency or State agency.* The Commission, department, division or other agency of a State which has the primary legal authority for the conservation of fish and wildlife. If more than one agency is designated by the State to exercise such authority, the term means each such agency acting with respect to its assigned responsibilities.

(d) *Director.* The Director of the U.S. Fish and Wildlife Service or his/her designee.

(e) *Federal Aid Manual.* The publication of the U.S. Fish and Wildlife Service which contains policies, standards and procedures required for participation in the benefits of the Act.

(f) *Fish and Wildlife.* Wild vertebrate animals that are in an unconfined state.

(g) *Nongame fish and wildlife.* Fish and wildlife that:

(1) Are not ordinarily taken for sport, fur, food, or commerce within the State except that any species legally taken for sport, fur, food, or commerce in some but not all parts of a State may be deemed nongame within any area where such taking is prohibited; and

(2) Are not listed as endangered or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543); and

(3) Are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(5)); and

(4) Are not domesticated species that have reverted to a feral existence.

(h) *Plan species.* Any species or subspecies or ecologic association of species and subspecies which is designated to be addressed through actions set forth in an approved conservation plan.

(i) *Project.* A definitive proposal submitted by a State and approved by the regional director for funding under this Act.

(j) *Regional Director.* The regional director of the U.S. Fish and Wildlife Service or his/her designee.

(k) *Secretary.* The Secretary of the Interior or his/her designee.

(l) *State.* Any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

§ 83.2 Participant eligibility.

Participation is limited to designated State agencies. If a State places primary legal authority for the conservation of fish and wildlife in more than one agency, the governor or chief executive of that State shall designate the State agency which will serve to coordinate the State actions under this Act. The director of each designated State agency shall notify the regional director, in writing, of the official(s) authorized to sign Federal Aid documents and of any changes in such authorizations.

§ 83.3 Allocation of funds.

In accordance with the provisions of the Act, the allocation of funds to the States shall take into account the area and population of each State.

(a) Area of the land and water of each State shall be as determined by the Department of Commerce and shall include the area of coastal and Great Lakes waters within each State.

(b) Population of each State shall be the most recent population estimates, as determined by the Department of Commerce.

§ 83.4 Eligible undertakings.

Funding under this Act may be approved by the regional director to carry out projects which meet the standards of substantiality as defined in § 83.12 and which conform to one of the following:

(a) A proposal to implement a nongame action in lieu of an approved conservation plan. Upon a showing of need, a State may request funding under this Act before a conservation plan is approved. Such a proposal must:

(1) Be for the purpose of conserving, restoring, or otherwise benefitting nongame fish and wildlife, its habitats or its users;

(2) Comply with standards contained in the Federal Aid Manual; and

(3) Consist of work to be accomplished before October 1, 1986.

(b) A proposal to develop or maintain a conservation plan. The designated State agency may apply for funding of a project for developing a conservation plan, coordinating or consolidating a conservation plan with other plans, or maintaining a previously approved conservation plan. State costs incurred later than September 30, 1991, for the development of a conservation plan cannot be approved for funding.

(c) A proposal to implement actions described in an approved conservation plan. Such a proposal specifies and requests funding to cover one or more of the nongame actions described in the approved conservation plan.

§ 83.5 Limitations.

The following limitations shall apply to the eligibility of projects for funding under the Act:

(a) Of the total estimated costs for any project proposed under this Act, not less than 80 percent shall be for work or activities for the principal benefit of nongame fish and wildlife resources or of the public use of these resources.

(b) Upon approval of a conservation plan, all projects must be limited to actions required for implementing or revising the plan or for coordinating or consolidating the plan with other plans.

(c) Not more than 10 percent of the costs of any project which is carried out in lieu of an approved conservation plan, or which is carried out under an approved conservation plan covering only nongame fish and wildlife resources, may be derived from the sale of hunting, fishing, and trapping licenses and from penalties (including forfeitures) for violations of hunting, fishing, and trapping laws of the State.

(d) Not more than 10 percent of the estimated costs for projects to be funded shall be for law enforcement activities.

(e) Not more than 10 percent of the cost of implementing any project under this Act shall be funded by in-kind contributions from third parties.

§ 83.6 Appeals.

Any difference of opinion over the eligibility of proposed activities or differences arising over the conduct of work may be appealed to the Director. Final determinations rests with the Secretary.

§ 83.7 Availability of funds.

Funds allocated to a State under the Act are available for obligation and expenditure during the fiscal year for which they are allocated and until the close of the succeeding fiscal year. For the purpose of this section, obligation of allocated funds occurs when a project agreement is approved by the Regional Director.

§ 83.8 Submission of proposals for funding.

To make application for funds allocated under this Act, the State shall submit to the regional director an Application for Federal Assistance.

(a) Each application shall contain such information as the regional director may require to determine if the proposed activities are in accordance with the Act, the provisions of this part, and the standards contained in the Federal Aid Manual.

(b) Applications must be signed by the director of the designated State agency or the official(s) delegated to exercise the authority and responsibilities of such director in committing the State to participation under the Act.

§ 83.9 Conservation plans.

A conservation plan submitted to the regional director for approval shall meet the requirements for substantiality set forth in § 83.12(a) and the standards prescribed in the Federal Aid Manual, and shall:

(a) Identify the species of nongame fish and wildlife, and other fish and wildlife deemed appropriate by the designated State agency which are within the State and are valued for ecological, educational, aesthetic, cultural, recreational, economic, or scientific benefits by the public;

(b) Provide for inventory(ies) of the identified species (plan species) to determine:

(1) Their population size, distribution, and range; and

(2) The extent, condition, and location of their significant habitats.

(c) Identify the significant problems which may adversely affect the plan species;

(d) Determine actions which should be taken to conserve the plan species and their significant habitats. Actions proposed will seek to optimize population levels, population distributions, and human benefits while taking fully into account the effects on non-target species and user groups. The actions will utilize methods and procedures which will, to the maximum extent practicable, ensure the well-being and enhancement of the plan species;

(e) Establish priorities for implementing the actions proposed in (d);

(f) Provide for regular monitoring of the plan species and the effectiveness of the actions implemented;

(g) Provide for the review of the plan and revision, if appropriate, at intervals of not more than 3 years;

(h) Describe procedures by which inputs have been solicited from the public during plan development and by which inputs will be solicited during revision and implementation of the plan;

(i) Indicate State and Federal agencies which were consulted during plan development and which will be consulted during plan implementation. If plan implementation will entail substantive cooperation with other agencies, an agreement describing the intended cooperation and signed by the involved parties must be executed before funding is authorized.

§ 83.10 Cost sharing

Federal and State participation in the costs incurred in completion of approved work funded by this Act shall be limited as follows:

(a) The Federal share may not exceed:

(1) Ninety percent of the costs for development of conservation plans, except after September 30, 1984, the Federal share may not exceed 75 percent of the cost for development of conservation plans, and after September 30, 1991, no reimbursement may be paid under this Act for development of a conservation plan;

(2) Seventy-five percent of the costs for implementing and revising an approved conservation plan, except the Federal share may be increased to 90 percent if two or more States have mutually agreed to cooperate in implementation projects, provided, however, that after September 30, 1991, the Federal share may not exceed 50 percent if the conservation plan covers only nongame species;

(3) Seventy-five percent of the costs incurred prior to October 1, 1986, for projects which are not covered by an approved conservation plan, except the Federal share may be increased to 90 percent if two or more States have mutually agreed to cooperate in projects.

(b) The State share of project costs:

(1) May be in the form of cash or in-kind contributions, subject to the limitations described in § 83.5 and the following conditions:

(i) The allowability and valuation of in-kind contributions shall be in accordance with the provisions of OMB Circular A-102 and the policies and standards as described in the Federal Aid Manual.

(ii) Volunteers proposed by the State to provide personal services to be claimed as in-kind contributions must possess qualifications appropriate to the service to be performed. The State must attest to such qualifications of all such volunteers based on the volunteers' training, experience or employment status, or upon an endorsement provided by a recognized institution, agency, or professional society.

(2) May not be derived from other Federal funds.

§ 83.11 Cooperation between States.

Whenever two or more States propose to cooperate in the revision of a conservation plan or in a conservation action which will result in a higher rate of Federal costsharing, such States shall describe in documentation the plan or action to be jointly undertaken. The proposed cooperation shall:

(a) Require each cooperating State to accept and carry out a substantial share of the described undertaking;

(b) Enhance the effectiveness of or reduce the total cost in accomplishing the project purpose;

(c) Be supported by a memorandum of understanding executed by the cooperating States.

§ 83.12 Project requirements.

Each project proposed for funding under the Act shall be substantial in character and design and shall be in conformance with the policies and standards contained in the Federal Aid Manual.

(a) A substantial project for plan development or plan maintenance is one which:

(1) Provides defined objectives related to completion or revision of the plan, with schedules for completion;

(2) Utilizes accepted planning techniques and appropriate procedures;

(3) Provides for public involvement;

(4) Accomplishes its purpose at a reasonable cost;

(5) Provides assurance that, upon completion of the plan, the State intends to be guided by the conservation plan being developed or maintained.

(b) A substantial project for implementation of approved conservation plans is one which:

(1) Identifies specific conservation actions contained in the plan;

(2) Identifies the objectives to be accomplished related to the needs described in the plan;

(3) Utilizes accepted conservation and management principles, sound design, and appropriate procedures.

(c) A substantial project for actions in lieu of an approved conservation plan is one which:

(1) Identifies and describes a need within the purposes of the Act;

(2) Identifies the objectives to be accomplished based on the stated need;

(3) Utilizes accepted conservation and management principles, sound design, and appropriate procedures;

(4) Will yield benefits which are pertinent to the identified need at a level commensurate with project costs.

§ 83.13 Application of funds provided under the Act.

(a) Funds provided under this Act shall be applied only to activities or purposes approved by the regional director or contained in a conservation plan approved by the regional director. If otherwise applied, such funds must be replaced by the State to maintain eligibility.

(b) Real property acquired or constructed with Federal Aid funds must continue to serve the purpose for which acquired or constructed:

(1) When such property passes from management control of the designated State agency, either the control must be fully restored to the designated State agency or the real property must be replaced using non-Federal Aid funds. Replacement property must be of equal value at current market prices and with equal or commensurate nongame fish and wildlife benefits as the original property. The State may be granted up to 3 years from the date of notification by the regional director, to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes which interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the regional director, the property shall be used or disposed of as provided in Attachment N of OMB Circular A-102.

(c) Federal Aid funds shall not be used for the purpose of producing income. However, income producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities shall be accounted for in the project records and its disposition shall be in accordance with Attachment E of OMB Circular A-102.

§ 83.14 Allowable costs.

Allowable costs are limited to those which are necessary and reasonable for accomplishment of the approved project or action and are in accordance with the cost principles of OMB Circular A-87.

(a) All costs must be supported by source documents or other records as necessary to substantiate the application of funds. Such documentation and records are subject to review by the Secretary to determine the allowability of costs.

(b) Costs incurred prior to the effective date of the project agreement are allowable only when specifically provided for in the project agreement.

(c) Projects or facilities designated to include purposes other than those eligible under the Act shall provide for the allocation of costs among the various purposes. The method uses to allocate costs shall produce an equitable distribution of costs based on the relative used or benefits provided.

§ 83.15 Payments.

Payments to the State shall be made for the Federal share of allowable costs incurred by the State in accomplishing approved projects.

(a) Requests for payments shall be submitted on forms furnished by the regional director.

(b) Payments shall be made only to the office or official specified by the designated State agency and authorized under the laws of the State to receive public funds for the State.

(c) All payments are subject to final determination of allowability based on audit. Any overpayments made to the State shall be recovered as directed by the regional director.

§ 83.16 Maintenance.

The State is responsible for maintenance of all capital improvements acquired or constructed with Federal Aid funds throughout the useful life of each improvement. Costs for such maintenance are allowable when provided for in approved projects. The maintenance of improvements acquired or constructed with non-Federal Aid funds are allowable costs when such improvements are necessary to accomplishment of project purposes as approved by the regional director, and when such costs are otherwise allowable by law.

§ 83.17 Responsibilities.

In the conduct of activities funded under the Act, the State is responsible for:

(a) The supervision of each project to assure that it is conducted consistent with the project documents and that it provides:

(1) Proper and effective use of funds;

(2) Maintenance of project records;

(3) Timely submission of reports;

(4) Regular inspection and monitoring of work in progress.

(b) The selection and supervision of project personnel to assure that:

(1) Adequate and competent personnel are available to carry the project through to a satisfactory and timely completion;

(2) Project personnel perform the work to ensure that time schedules are met, projected work units are accomplished, other performance objectives are achieved, and reports are submitted as required.

(c) The accountability and control of all assets to assure that they serve the purposes for which acquired throughout their useful life.

(d) The compliance with all applicable Federal, State, and local laws.

(e) The settlement and satisfaction of all contractual and administrative issues arising out of procurement entered into.

§ 83.18 Records.

The State shall maintain current and complete financial, property and procurement records in accordance with requirements contained in the Federal Aid Manual and OMB Circular A-102.

(a) Financial, supporting documents, and all other records pertinent to a project shall be retained for a period of 3 years after submission of the final expenditure report on the project. If any litigation, claim, or audit was started before the expiration of the 3-year period, the records shall be retained until the resolution is completed. Records for nonexpendable property shall be retained for a period of 3 years following final disposition of the property.

(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the State.

§ 83.19 Land control.

The State must control lands or waters on which capital improvements are made with Federal Aid funds. Control may be exercised through fee title, lease, easement, or agreement. Control must be adequate for protection, maintenance, and use of the improvement throughout its useful life.

§ 83.20 Assurances.

The State must agree to and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds under the Act. The Secretary shall have the right to review or inspect for compliance at any time. Upon determination of noncompliance, the Secretary may terminate or suspend any actions or projects in noncompliance, or may declare the State ineligible for further participation in program benefits until compliance is achieved.

§ 83.21 Audits.

The State is required to conduct an audit at least every two years in accordance with the provisions of Attachment P of OMB Circular A-102. Failure to conduct audits as required may result in withholding of grant payments or such other sanctions as the Secretary may deem appropriate.

[49 FR 30074, July 26, 1984]

SUBCHAPTER G—MISCELLANEOUS PROVISIONS

PART 90—FEEDING DEPREDATING MIGRATORY WATERFOWL

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Subpart B—Use of Surplus Grain

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90.13 Policy.
90.14 Waterfowl depredation complaints; where filed.
90.15 Criteria to govern approval of applications.
90.16 Actions following investigation.
90.17 Compliance with other regulations.

AUTHORITY: 70 Stat. 492, 7 U.S.C. 443.

SOURCE: 38 FR 6675, Mar. 12, 1973, unless otherwise noted.

Subpart A—Introduction

§ 90.1 General.

Any person having an interest in a crop and who is suffering damage due to depredations by migratory waterfowl may file a complaint and apply for surplus grain for use in feeding programs to augment the natural source of food available to migratory waterfowl to aid in the prevention of crop damage by such birds, as provided for in these regulations.

§ 90.2 Scope of regulations.

The provisions of this part supplement 70 Stat. 492, 7 U.S.C. 442-445.

Subpart B—Use of Surplus Grain

§ 90.11 Statutory provisions.

Section 1 of the Act of July 3, 1956, as amended (70 Stat. 492; 7 U.S.C. 442-445) provides that the Commodity Credit Corporation shall make available to the Secretary of the Interior such wheat, corn, or other grains, acquired through price support operations and certified by the Corporation to be available for purposes of the Act or in such condition through spoilage or deterioration as not to be desirable for human consumption, as the Secretary shall requisition for the purpose of preventing crop damage by migratory waterfowl. Section 2 of the Act provides that, upon a finding that any area in the United States is threatened with damage to farmers' crops by migratory waterfowl, the Secretary is authorized and directed to requisition from the Commodity Credit Corporation and to make available to Federal, State, or local governmental bodies or officials, or to private organizations or persons, such grain acquired by the Corporation through price support operations in such quantities and subject to such regulations as the Secretary determines will most effectively lure migratory waterfowl away from crop depredations and at the same time not expose such migratory waterfowl to shooting over areas to which the waterfowl have been lured by such feeding programs.

§ 90.12 Interpretation.

The authorization contained in the Act limits the availability of grain acquired through price support operations to the prevention of crop damage by migratory waterfowl (brant, wild ducks, geese, and swans) and such grain may not be made available for the feeding of any other species of migratory birds, whether or not such other species of migratory birds are committing or threatening to commit crop damage. Further, the Act does not authorize the use of such grain to conduct a migratory waterfowl feeding program for the purpose of augmenting natural sources of food available to migratory waterfowl, nor for any purpose incident to migratory waterfowl management not related to the prevention of crop damage. Accordingly, such grain shall not be made available pursuant to the Act to augment or to substitute for natural sources of migratory waterfowl food except as may be determined by the Secretary to be necessary to aid in the prevention of crop damage by such birds.

§ 90.13 Policy.

Whenever it is found necessary to conduct feeding programs under this section for the purposes of preventing crop damage by migratory waterfowl, it shall be the policy of the Secretary for the purposes of economy and efficiency to accord preference to feeding programs proposed to be executed through the placement of grain upon wildlife management areas or other lands or waters owned, leased, or otherwise controlled by an agency of the United States or a State.

§ 90.14 Water fowl depredation complaints; where filed.

Any person having an interest in crops being damaged or threatened with damage by migratory waterfowl in circumstances meeting the criteria prescribed in § 90.15 may make application for grain for use in luring such waterfowl away from such crops by submitting a written request to the Regional Director of the U.S. Fish and Wildlife Service regional office having administrative jurisdiction over the wildlife activities in the State where the affected crops are located. (See § 2.2 for geographical jurisdiction and addresses of regional offices.) Such applications may be in letter form but must contain information disclosing the location, nature, condition and extent of the crops being damaged or threatened, and the particular species of migratory waterfowl committing or threatening to commit damage. For the purposes of this section any authorized official of Federal, State, or local governmental body shall be deemed to be a "person" and to have such an interest in crops threatened with damages as to qualify him as an applicant.

§ 90.15 Criteria to govern approval of applications.

Upon receipt of a written application for such grain for use in preventing crop depredations, the Regional Director shall promptly cause an investigation to be made, when necessary, to determine whether the applicant is in fact entitled to have such grain made available for such purposes. Whenever feasible the required investigation shall be made jointly by a representative of the game department of the State in which the affected crops are located and a representative of the Regional Director. When conducting such investigations, each of the factors set forth in paragraphs (a) to (d) of this section shall be considered separately. An application for grain shall not be approved if it is determined that one or more of these factors minimizes the extent of crop damage or provides another effective method of preventing the complained of damage.

(a) The migratory waterfowl committing or threatening to commit crop damage must be predominantly of a species which are susceptible of being effectively lured away from the crops by the use of such grain.

(b) The crop damage or threatened crop damage must be substantial in nature (when measured by the extent and potential value of the crops involved and the number of birds threatening damage); and must affect growing crops or mature unharvested crops that are in such condition as to be marketable or have value as feed for livestock or other purposes of material value to the applicant.

(c) It must be shown that the damage or threat of damage cannot be abated through the exercise of any of the privileges granted in permits authorized by this Chapter I to frighten or otherwise herd migratory waterfowl away from affected crops.

(d) During an open hunting season, it must be shown that the area affected by crop damage has been and is now open to public hunting and there has been a clear demonstration that such hunting is ineffective, and cannot be made effective, to prevent crop damage on such area.

§ 90.16 Actions following investigation.

Upon receipt of a report and recommendations based upon an investigation conducted under § 90.15, the Secretary shall make a determination that the applicant meets the qualifications for receiving grain. He shall then determine the quantity of grain, either bagged or in bulk, to be made available; the means of transportation; and the point of delivery in the vicinity of the crop damage. Before receiving delivery of such grain the applicant shall execute and deliver to any officer authorized to enforce this part written assurances as follows:

(a) That grain made available to him under this part will be used exclusively for the prevention and abatement of crop damage by migratory waterfowl and that no portion of such grain will be sold, donated, exchanged, or used as feed for livestock or other domestic animals or for any other purpose;

(b) That consent is granted to any officer authorized to enforce this part, to inspect, supervise or direct the placement and distribution of grain made available under this part for the prevention of crop damage at all reasonable times;

(c) That free and unrestricted access over the premises on which feeding operations have been or are to be conducted shall be permitted at all reasonable times, by any officer authorized to enforce this part and that such information as may be required by the officer will be promptly furnished; and

(d) That the applicant will not take, nor permit his agents, employees, invitees, or other persons under his control to take migratory game birds on or over any lands or waters subject to his control, during the time such grain is placed, exposed, deposited, distributed, scattered, or present upon such lands or waters, nor for a period of 10 days immediately following the consumption or removal of such grain from such lands or waters.

§ 90.17 Compliance with other regulations.

Nothing in this subpart shall be construed to supersede or modify any regulations relating to the hunting of migratory game birds, nor to permit the transportation, installation or use of grain contrary to any applicable Federal, State, or local laws or regulations.

PART 91—MIGRATORY BIRD HUNTING AND CONSERVATION STAMP CONTEST

Subpart A—Introduction

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91.13 Technical requirements for design and submission of entry.
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Subpart C—Contest Procedures

91.21 Selection and qualification of contest Judges.
91.22 Date and location of contest.
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91.25 Scoring procedure for contest.
91.26 Public attendance at contest.

Subpart D—Post-Contest Procedures

91.31 Return of entries after contest.

AUTHORITY: 5 U.S.C. 301, 31 U.S.C. 9701.

SOURCE: 40 FR 25826, June 19, 1975, unless otherwise noted.

Subpart A—Introduction

§ 91.1 Purpose of regulations.

The regulations contained in this part set forth the rules and procedures governing the annual Migratory Bird Hunting and Conservation Stamp Contest through which a design is chosen for the Migratory Bird Hunting and Conservation Stamp.

[42 FR 34885, July 7, 1977]

§ 91.2 Definitions.

For the purpose of this part, the following terms shall be construed, respectively, to mean and to include:

"Contest Coordinator" means the contest official responsible for facili-

tating the judging process and tabulating the Judges' scores for each entry advanced into preliminary or final consideration. The contest coordinator will be named by the Secretary and will not be a past or present employee of the Fish and Wildlife Service.

"Qualifying entry" means each drawing or original work submitted in the contest which satisfies the technical requirements of design and submission procedures, as outlined in Subpart B of this part.

"Reproduction rights agreement" means the agreement that each contestant must sign and submit which certifies the originality of the entry and acknowledges the entrant's acceptance of the terms and conditions governing the right of the Fish and Wildlife Service to use and reproduce the winning design for the purpose set forth in the agreement.

[47 FR 26636, June 21, 1982]

Subpart B—Contest Entry Submission Procedures

§ 91.11 Contest deadlines.

(a) The contest to select the design for the annual Federal Migratory Bird Hunting and Conservation Stamp will officially open on July 1 of each year.

(b) All persons intending to submit an entry to the contest must request copies of the current year's contest regulations list of eligible species and Reproduction Rights Agreement by writing to "Migratory Bird Hunting and Conservation Stamp Contest," Room 1025-A Interior, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240. Entries accompanied by the non-refundable remittance required by § 91.12 may be received any time after July 1, but must be received or postmarked no later than midnight of October 1.

[47 FR 26636, June 21, 1982, as amended at 50 FR 9280, Mar. 7, 1985]

§ 91.12 Contestant eligibility.

United States citizens, nationals, or resident aliens shall be eligible to participate in the contest. However, any person who has won the contest during the preceding three years shall be ineligible to submit an entry in the current year's contest. Members of the contest judging panel and their relatives are also ineligible to submit an entry. To be eligible, all entrants must submit a non-refundable fee of $35.00. Remittance should be by cashier's check or money orders and made payable to the U.S. Fish and Wildlife Service.

[40 FR 25826, June 19, 1975, as amended at 47 FR 26636, June 21, 1982; 49 FR 20020, May 11, 1984; 50 FR 9280, Mar. 7, 1985]

§ 91.13 Technical requirements for design and submission of entry.

The design must be a horizontal drawing or painting five inches high and seven inches wide. Each entry may be drawn in any medium desired by the contestant and may be in either multicolor or black and white. No scroll work, lettering, signature, or initials may appear on the design. Each entry must be matted (over or under), with an eight inch by ten inch mat (color optional), not exceeding one-half inch in total thickness and protected by an easy to remove covering of acetate or cellophane. Entries must not be framed or under glass.

[47 FR 26636, June 21, 1982, as amended at 49 FR 20020, May 11, 1984; 50 FR 9280, Mar. 7, 1985]

§ 91.14 Restrictions on subject matter of entry.

A portrayal of live, non-extinct North American migratory ducks, geese, or swans (Family Anatidae) must be the dominant feature of the design. A list of eligible species will be provided to contestants as specified in § 911.11 of this part. No such species shall be portrayed which has been selected for the Migratory Bird Hunting and Conservation Stamp during the preceding five years. The design must be the contestant's own original creation and may not be copied or duplicated from previously published art, including photographs. An entry submitted in a prior contest which was not selected for the stamp design, may be resubmitted in the present contest at the contestant's discretion.

[42 FR 34885, July 7, 1977, as amended at 45 FR 47690, July 16, 1980; 47 26636, June 21, 1982; 50 FR 9280, Mar. 7, 1985]

§ 91.15 Suitability of entry for engraving.

All entries should be rendered with fullest possible attention to tone and detail. These are important prerequisites in engraving for printing, as they determine texture and directions of lining. The wing and feather construction must be particularly well defined as an engraver is reliant on the art of the naturalist for details. Carefully detailed wash drawings using black ink or watercolor best meet these requirements. Dashing applications of watercolor are too indefinite for an engraver to render into line. Careful pencil renderings are nearly as effective as wash drawings but they often fail to define the needed degree of contrast. Etchings can be successfully adapted to engraving when they are sufficiently detailed.

§ 91.16 Submission procedures for entry.

(a) Contestants may submit only one entry. Each entry must be accompanied by a non-refundable entrance fee and a completed Reproduction Rights Agreement. The lower detachable portion of the contestant's Reproduction Rights Agreement must be completed and attached to the back of the entry.

(b) Each contestant must sign and clearly print his or her name, and submit the top portion of the Reproduction Rights Agreement.

(c) Each entry should be protectively wrapped and mailed first class registered to: "Migratory Bird Conservation Stamp Contest," Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

[47 FR 26636, June 21, 1982]

§ 91.17 Property insurance for entries.

All contestants are hereby notified of the advisability of obtaining adequate property insurance coverage for their respective entry. The Department of the Interior will not so insure the entries it receives. The Department and the Fish and Wildlife Service are not responsible for damage in the mails or loss by fire or theft.

[42 FR 34885, July 7, 1977]

§ 91.18 Failure to comply with contest regulations.

Any entry which fails to comply with any of the requirements of this Subpart shall be disqualified from the contest and will not be considered by the judging panel.

Subpart C—Contest Procedures

§ 91.21 Section and qualification of contest Judges.

Judges will be selected annually by the Secretary. Current employees of the Fish and Wildlife Service and their relatives are ineligible to serve as Judges for the contest. The Judges selected by the Secretary will serve without compensation, except for reasonable travel expenses. Identification of the members of the judging panel will be announced on the date that the judging takes place.

[47 FR 26636, June 21, 1982, as amended at 49 FR 20020, May 11, 1984]

§ 91.22 Date and location of contest.

The selection of the winning entry will take place as soon as possible after the closing date of the contest but in no event will it be later than Nov. 10 of each year. The exact date, time and location of the contest will be announced a reasonable period of time prior to November 10 through the publication of a notice in the FEDERAL REGISTER.

[42 FR 34885, July 7, 1977]

§ 91.23 Display of entries for contest selection.

Entries chosen by the panel of judges under the procedures of § 91.25 of this part will be displayed chronologically, based on the date of receipt of the entry. The only visible identification mark on each displayed entry will be the number assigned to the entry by the Contest Coordinator (or authorized representative).

[45 FR 47690, July 16, 1980]

§ 91.24 Scoring criteria for contest.

Entries will be judged on the basis of anatomical accuracy and artistic composition and will receive a score of between zero to ten.

[40 FR 25826, June 19, 1975, as amended at 49 FR 20020, May 11, 1984]

§ 91.25 Scoring procedure for contest.

Prior to the judging of the entries, the entire panel of judges will be briefed by a printing and engraving expert on the requisite characteristics which make a design suitable for engraving. All qualified entries will be shown one at a time to the panel of judges by the Contest Coordinator. The judges will vote on each entry, those entries receiving a majority vote will receive further consideration. This screening process will continue until 400 or fewer entries remain in the competition. These remaining entries will be placed together on display for public viewing and further judging. Each Judge will then be allowed to nominate an unlimited number of qualifying entries for preliminary consideration by the entire panel of Judges. When the panel of Judges has completed this nomination process, the entries nominated for preliminary consideration will be silently voted on by each member of the panel of Judges. Each Judge will indicate a numerical score from zero to ten for each nominated entry. One highest and one lowest score for each entry will be eliminated, and the remaining scores will be totaled to represent that entry's score. The entries receiving the five highest scores will be advanced into the final round of consideration. The entire panel of Judges will again silently vote on all of the entries remaining for final consideration and will use the same scoring system and criteria for selection as employed in the preliminary round of consideration. The Contest Coordinator will tabulate the final votes and announce the winning entry which received the highest total of points and the second and third runner-ups. In case of a tie vote for first place in the final round of consideration, the entire panel of Judges will silently vote again on the deadlocked entries, with each Judge voting for only that entry believed to be most qualified to win. The selection of the winning entry by the Judges will be final. Each contestant will be notified of the name of the winning artist and design.

[40 FR 25826, June 19, 1975, as amended at 45 FR 47690, July 16, 1980; 49 FR 20020, May 11, 1984]

§ 91.26 Public attendance at contest.

All phases of the nomination and voting process will be open for viewing by the general public.

Subpart D—Post-Contest Procedures

§ 91.31 Return of entries after contest.

All entries will be returned by certified mail to the participating artists within 120 days of completion of the contest.

[47 FR 26636, June 21, 1982, as amended at 49 FR 20020, May 11, 1984]

SUBCHAPTER H—NATIONAL WILDLIFE MONUMENTS

PART 96—ALASKA NATIONAL WILDLIFE MONUMENTS

Sec.
96.1 Alaska National Wildlife Monuments.
96.2 Definitions.
96.3 Prohibited acts.
96.4 Subsistence uses.
96.5 The use of snowmobiles, off-road vehicles, motorboats and aircraft.
96.6 Recreational activities.
96.7 Taking of fish and wildlife.
96.8 Enforcement.
96.9 Mining access permits.

AUTHORITY: 16 U.S.C. 460k-3; 16 U.S.C. 432; 16 U.S.C. 742(f); Presidential Proclamation of Dec. 1, 1978 (43 FR 57009).

SOURCE: 43 FR 60257, Dec. 26, 1978, unless otherwise noted.

§ 96.1 Alaska National Wildlife Monuments.

These areas were established by Presidential Proclamation for the purpose of preserving and enhancing their outstanding scientific and historic values. The interim regulations in this part authorize or prohibit various public activities within Alaska National Wildlife Monuments administered by the U.S. Fish and Wildlife Service. These interim regulations will remain in effect until the publication of final regulations establishing permanent rules governing the administration of Alaska National Wildlife Monuments.

§ 96.2 Definitions.

The definitions in this section apply only to this Part 96 of Title 50 of the CFR. As used in this part:

"Alaska National Wildlife Monument" means the Becharof and Yukon Flats National Monuments in Alaska which are administered by the U.S. Fish and Wildlife Service.

"Area Director" means any official of the U.S. Fish and Wildlife Service who has been delegated authority over Alaska National Wildlife Monuments, including the Alaska Area Director of the U.S. Fish and Wildlife Service or his authorized representatives.

Claim. Any valid patented or unpatented mining claim, mill or tunnel site, or other site of mining operations, whether on Federal, State, or Private lands.

Mining operations. All functions, work and activities in connection with mining on claims, including: Prospecting, exploration, surveying, development and extraction; dumping mine waste and stockpiling ore; transport or processing of mineral commodities; reclamation of the surface disturbed by such activities; and all activities and uses reasonably incident thereto regardless of whether such activities and uses take place on Federal, State or private land.

"Off-Road Vehicles" means any motorized vehicle designed for, or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, wetland or other natural terrain.

Person. Any individual, partnership, corporation, association or other entity.

"Subsistence Uses" means the customary and traditional use in Alaska of wild, renewable resources for (1) direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation, (2) the making or selling of handicraft articles out of nonedible by-products of fish and wildlife resources taken for personal or family consumption, and (3) customary trade, barter, or sharing for personal or family consumption.

[43 FR 60257, Dec. 26, 1978, as amended at 44 FR 15501, Mar. 14, 1979]

§ 96.3 Prohibited acts.

No person shall enter, or undertake any activity which would appropriate, injure, or destroy an Alaska National Wildlife Monument, or any part or value thereof, including fish and wildlife or plant resources, unless such entrance or activity is specifically authorized by the Area Director or is in accordance with these regulations. Such prohibited activities include but are not limited to the establishment or construction of roads, trails, utility and transmission lines, pipelines, canals, cabins and the cutting or removal of logs or wood. The Area Director may only authorize these or other activities upon his determination that they are compatible with the preservation and conservation of the affected Alaska National Wildlife Monument or any part or value thereof.

§ 96.4 Subsistence uses.

(a) The nonwasteful subsistence uses of fish, wildlife or plant resources within Alaska National Wildlife Monuments shall be allowed to continue by local rural residents who comply with applicable provisions of State and Federal law. The nonwasteful subsistence use of fish, wildlife or plant resources shall be the first priority consumptive use of such resources over other consumptive uses such as sport hunting, commercial trapping, or sport or commercial fishing.

(b) Notwithstanding any other provision of this section, the Area Director may close all or any portion of an Alaska National Wildlife Monument to the subsistence uses of a particular fish, wildlife or plant population, or take such other measures as may be necessary, if he determines that an emergency situation exists and that measures must be taken to provide for public safety or to assure the natural stability and continued viability of the particular population of fish, wildlife or plants. In the case of closure, the Area Director shall post a notice of the reasons justifying the closure in communities known to be affected by the closure and shall publish and broadcast the reasons justifying the closure in the local media in the area of the closure. Such emergency closure shall be effective when made, shall be for a period not to exceed sixty days, and shall not be extended unless the Area Director establishes after notice and informal public hearing that such extension is justified.

§ 96.5 The use of snowmobiles, off-road vehicles, motorboats, and aircraft.

The use of snowmobiles, off-road vehicles, motorboats and aircraft within Alaska National Wildlife Monuments for access to areas within, adjacent to, or across the Monuments may continue where such use is traditional and established or reasonable and appropriate in exercise of a valid property right. Furthermore, the use of snowmobiles, off-road vehicles and motorboats for subsistence purposes within Alaska National Wildlife Monuments may continue where such use is traditional and established. *Provided, however,* That the use of all such motorized vehicles for fire fighting, law enforcement or resource management purposes shall not be limited to those areas where the use of such vehicles is traditional and established. All such motorized vehicles shall be operated in compliance with applicable State and Federal law and in such a manner as to prevent abuse, waste, or damage to the Alaska National Wildlife Monuments or any part or value thereof. The Area Director may temporarily close or, after notice and opportunity for an informal public hearing, permanently close, areas within an Alaska National Wildlife Monument to the use of motorized vehicles if, in his discretion, he determines that the continuation of such uses is not compatible with the preservation and conservation of the Monument or any part or value thereof.

§ 96.6 Recreational activities.

Public recreational activities within an Alaska National Wildlife Monument shall be allowed to continue as long as such activities are conducted in a manner which prevents abuse, waste or damage to the Alaska National Wildlife Monument or any part or value thereof. Such recreational activities include but are not limited to sightseeing, nature observation and photography, hunting, fishing, boating, camping, hiking, picnicking and other related activities.

§ 96.7 Taking of fish and wildlife.

The taking of fish and wildlife within an Alaska National Wildlife Monument shall be allowed to continue in accordance with applicable State and Federal law and regulation; *Provided, however,* that the Area Director may designate areas where, and establish periods when, no taking of a particular population of fish or wildlife shall be permitted within an Alaska National Wildlife Monument for reasons of public safety, administration, or to ensure the natural stability or continued viability of such population. The following provisions shall apply to each person while engaged in the taking of fish or wildlife within an Alaska National Wildlife Monument:

(a) *Trapping and sport hunting.* (1) Each person shall secure and possess all required State license and shall comply with the applicable provisions of State law and regulations unless further restricted by Federal law or regulations;

(2) Each person shall comply with the applicable provisions of Federal law and regulations.

(b) *Sport and commercial fishing.* (1) Each person shall secure and possess all required State license and shall comply with the applicable provisions of State law and regulations unless further restricted by Federal law or regulations;

(2) Each person shall comply with the applicable provisions of Federal law and regulations.

§ 96.8 Enforcement.

Any person who violates any of the provisions of this part or any permit, limitation or condition issued by the Area Director shall, upon conviction, be penalized in accordance with the provisions of 16 U.S.C. 433 or 460k-3.

§ 96.9 Mining access permits.

(a) *General rule.* Notwithstanding the provisions of § 96.5, no person shall enter, cross by surface transportation, or land aircraft upon, lands, waters or interests therein owned or controlled by the United States within a National Wildlife Monument for purposes of conducting mining operations, except in accordance with the provisions of a mining access permit issued by the Area Director. The issuance of a mining access permit shall not be interpreted as excusing the permittee from compliance with other existing State or Federal laws applicable to mining operations, and shall not be deemed to render valid any claim which is not otherwise valid under applicable law. Accordingly, the issuance of a mining access permit for mining operations on the claim shall not be deemed a waiver of the Secretary's authority to examine, and where appropriate, to contest the validity of unpatented claims.

(b) *Permit application.* In applying for a mining access permit, each applicant shall set forth the following information concerning the proposed mining operations in a sworn statement which acknowledges that providing false information in support of the permit application is a violation of section 1001 of Title 18 of the U.S. Criminal Code:

(1) The name, mailing address and phone number of the permit applicant;

(2) The claim(s) name and description of type of claim (e.g. patented claim, mill site, unpatented claim etc.);

(3) A map with a scale of not less than ½ inch to a mile (1:125,000) showing the survey or protraction grids on which there will be depicted the location of the claim(s). Contiguous claims and groups of claims in the same general area may be depicted on a single map so long as the individual claims are clearly identified;

(4) The date(s) of location along with a copy of location notice(s);

(5) The date and place of recordation and book and page number of recordation;

(6) The kind of mine and minerals produced (e.g. placer, lode, copper, gold);

(7) A description of the proposed mining operations, the proposed routes and methods of access, period of intended occupancy and operation at claim site, and major equipment to be used in the operations;

(8) A brief environmental summary which: (i) Analyzes the environmental impacts of the proposed mining operations and routes and methods of access and the environmental impacts of any alternative routes and methods of access; and (ii) describes those measures which will be incorporated into the proposed mining operations and the construction and use of access routes to minimize the anticipated adverse impacts upon the Wildlife Monument and its related values;

(9) For unpatented claims within the Wildlife Monument the additional information shall be provided:

(i) The last year in which there was production from this claim or claim

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group and the amount of production (e.g. pounds, tons, market value etc.);

(ii) The person or company to whom the ore or concentrates were shipped;

(iii) The quantity of known reserves on the claim remaining to be mined (e.g. cubic yards, tons etc.) plus a description of the tests conducted and documents which support this estimation of quantity;

(iv) The grade or quality of the known reserves on the claim remaining to be mined (e.g. ounces per cubic yard, assay etc.) plus a description of the tests conducted and documents which support this estimation of grade or quality.

If the permit applicant requests a single mining access permit for contiguous unpatented claims or a group of unpatented claims in the same general area, it shall be stated to what extent the mineral data requested in question 9 of this Subsection exists for each separate claim to be covered by the permit. Permit applications shall be sent to the Area Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska, 99503.

(c) *Issuance criteria.* (1) Within 45 days of receiving a mining access permit application containing the information required in paragraph (b) of this section, the Area Director shall consider the following factors and decide whether to grant the permit, and if so under what conditions or restrictions:

(i) For unpatented claims within the Wildlife Monument whether the supplied mineral data supports a preliminary determination that the permit applicant is the holder of a valid existing right in the specified mining claim(s);

(ii) The anticipated environmental impact of the proposed mining operations and routes and methods of access upon the Wildlife Monument and its related values;

(iii) The existence of reasonable and prudent alternatives to the proposed routes and methods of access which could minimize or avoid the adverse impacts of such access upon the Wildlife Monument and its related values;

(iv) The existence of other proposed mining operations on valid mining claims in the same general area and the possibility of consolidating routes and methods of access among such claims;

(v) Whether an Environmental Impact Statement must be prepared prior to the issuance of the access permit.

If the review of the permit application cannot be completed within 45 days after its receipt, the Area Director shall notify the applicant and set forth the reasons why an additional period of time, not to exceed 30 days, is required to complete the review.

(2) A mining access permit shall not be granted if:

(i) In the case of unpatented mining claims within the Wildlife Monument, it is the preliminary determination of the Area Director that the permit applicant is not the holder of valid existing rights in the claims; or

(ii) The Area Director concludes that the proposed routes and methods of access would constitute a nuisance or would significantly injure or adversely affect the Wildlife Monument and its related values, and that such nuisance, injury or effect could not be adequately mitigated through the imposition of reasonable conditions or restrictions in the mining access permit;

(iii) A reasonable and prudent alternative exists to the proposed routes and methods of access which could minimize or avoid the adverse impacts upon the National Wildlife Monument and its related values; or

(iv) It is determined that an Environmental Impact Statement must be prepared prior to the issuance of a mining access permit.

(d) *Appeals process.* (1) Any permit applicant aggrieved by a decision of the Area Director in connection with the issuance or denial of a mining access permit may file with the Area Director a written statement setting forth in detail the respects in which the decision is contrary to, or in conflict with, the facts, the law, these regulations, or is otherwise in error. No such appeal will be considered unless it is filed with the Area Director within thirty (30) days after the date of notification to the permit applicant of the action or decision complained of. Upon receipt of the written statement from the permit applicant, the Area Director shall promptly review the action or decision and either reverse or reaffirm the original decision. If the Area Director reaffirms his original decision, he shall set forth the reasons therefor and forward his decision and the record on appeal to the Director, U.S. Fish and Wildlife Service, for review and final decision. Copies of the Area Director's decision on appeal shall be furnished to the permit applicant who shall have 20 days within which to file exceptions to the Area Director's decision. The Fish and Wildlife Service retains the discretion to initiate a hearing before the Office of Hearing and Appeals in a particular case. (See 43 CFR 4.700.)

(2) The Official files of the Fish and Wildlife Service on the proposed mining operations and routes and methods of access, and any testimony and documents submitted by the parties on which the decision of the Area Director was based, shall constitute the record on appeal. The Area Director shall maintain the record under separate cover and shall certify at the time it is forwarded to the Director of the Fish and Wildlife Service that it is the record on which his decision was based. The Fish and Wildlife Service shall make the record available to the permit applicant upon request.

(3) If the Director considers the record inadequate to support the decision on appeal, he may request the production of such additional evidence or information as may be appropriate, or may remand the case to the Area Director, with appropriate instructions for further action.

(4) Within forty-five (45) days of receipt of the permit applicant's exceptions to the Area Director's decision, the Director shall make his final decision in writing; *Provided, however,* That if more than forty-five (45) days are required for a decision after the exceptions are received, the Director shall notify the parties to the appeal and specify the reasons for delay. The decision of the Director shall include (i) a statement of facts, (ii) conclusions, and (iii) reasons upon which the conclusions are based. The decision of the Director shall be the final administrative action on the mining access permit application.

(5) A decision of the Area Director from which an appeal is taken shall not be automatically stayed by the filing of a statement of appeal. A request for a stay may accompany the statement of appeal or may be filed with the Director. The Director shall promptly rule on requests for stays. A decision of the Director on request for a stay shall constitute a final administrative decision.

(e) *Public inspection of documents.* Any permit application and accompanying documentation submitted pursuant to the regulations of this section shall be made available for public inspection at the Office of the Area Director. The availability of such records shall be governed by the rules and regulations found at 43 CFR Part 2, including the provisions therein regarding the confidentiality of commercial and financial information.

(f) *Penalties.* Undertaking any proposed mining operation in violation of the provisions of this section shall be deemed a trespass against the United States and the enforcement provisions of § 96.8 of this part shall not apply.

[44 FR 15501, Mar. 14, 1979]

PARTS 97–199—[RESERVED]

Appendix A to Chapter I—Codes for the Representation of Names of Countries (Established by the International Organization for Standardization)

Country	2-Letter code
Afghanistan	AF.
Albania	AL.
Algeria	DZ.
Angola	AO.
Argentina	AR.
Australia	AU.
Austria	AT.
Bahamas	BS.
Bahrain	BH.
Bangladesh	BD.
Barbados	BB.
Belgium	BE.
Benin	BJ.
Bhutan	BT.
Bolivia	BO.
Botswana	BW.
Brazil	BR.
Bulgaria	BG.
Burma	BU.
Burundi	BI.
Canada	CA.
Cape Verde	CV.
Central African Empire	CF.
Chad	TD.
Chile	CL.
China	CN.
Colombia	CO.
Comoros	KM.
Congo	CG.
Costa Rica	CR.
Cuba	CU.
Cyprus	CY.
Czechoslovakia	CS.
Democratic Kampuchea	KH.
Democratic People's Republic of Korea.	KP.
Democratic Yemen	YD.
Denmark	DK.
Djibouti	DJ.
Dominica	DM.
Dominican Republic	DO.
Ecuador	EC.
Egypt	EG.
El Salvador	SV.
Equatorial Guinea	GQ.
Ethiopia	ET.
Fiji	FJ.
Finland	FI.
France	FR.
Gabon	GA.
Gambia	GM.
German Democratic Republic	DD.
Germany, Federal Republic of	DE.
Ghana	GH.
Greece	GR.
Grenada	GD.
Guatemala	GT.
Guinea	GN.
Guinea-Bissau	GW.
Guyana	GY.
Haiti	HT.
Holy See	VA.
Honduras	HN.
Hungary	HU.
Iceland	IS
India	IN.
Indonesia	ID.
Iran	IR.
Iraq	IQ.
Ireland	IE.
Israel	IL.
Italy	IT.
Ivory Coast	CI.
Jamaica	JM.
Japan	JP.
Jordan	JO.
Kenya	KE.
Kiribati	KI.
Kuwait	KW.
Lao People's Democratic Republic.	LA.
Lebanon	LB.
Lesotho	LS.
Liberia	LR.
Libyan Arab Jamahiriya	LY.
Liechtenstein	LI.
Luxembourg	LU.
Madagascar	MG.
Malawi	MW.
Malaysia	MY.
Maldives	MV.
Mali	ML.
Malta	MT.
Mauritania	MR.
Mauritius	MU.
Mexico	MX.
Monaco	MC.
Mongolia	MN.
Morocco	MA.
Mozambique	MZ.
Nauru	NR.
Nepal	NP.
Netherlands	NL.
New Zealand	NZ.
Nicaragua	NI.
Niger	NE.
Nigeria	NG.
Norway	NO.
Oman	OM.
Pakistan	PK.
Panama	PA.
Papua New Guinea	PG.
Paraguay	PY.
Peru	PE.
Philippines	PH.
Poland	PL.
Portugal	PT.
Qatar	QA.
Republic of Korea	KR.
Romania	RO.
Rwanda	RW.
Saint Lucia	LC.
Samoa	WS.
San Marino	SM.
Sao Tome and Principe	ST.
Saudi Arabia	SA.
Senegal	SN.
Seychelles	SC.

Country	2-Letter code
Sierra Leone	SL.
Singapore	SG.
Solomon Islands	SB.
Somalia	SO.
South Africa	ZA.
Spain	ES.
Sri Lanka	LK.
Sudan	SD.
Suriname	SR.
Swaziland	SZ.
Sweden	SE.
Switzerland	CH.
Syrian Arab Republic	SY.
Thailand	TH.
Togo	TG.
Tonga	TO.
Trinidad and Tobago	TT.
Tunisia	TN.
Turkey	TR.
Tuvalu	TV.
Uganda	UG.
Union of Soviet Socialist Republics.	SU.
United Arab Emirates	AE.
United Kingdom of Great Britain and Northern Ireland.	GB.
United Republic of Cameroon	CM.
United Republic of Tanzania	TZ.
United States of America	US.
Upper Volta	HV.
Uruguay	UY.
Vanuatu	VU.
Venezuela	VE.
Viet Nam	VN.
Yemen	YE.
Yugoslavia	YU.
Zaire	ZR.
Zambia	ZM.
Zimbabwe	ZW.

[47 FR 31388, July 20, 1982]

FINDING AIDS

A list of CFR titles, subtitles, chapters, subchapters and parts and an alphabetical list of agencies publishing in the CFR are included in the CFR Index and Finding Aids volume to the Code of Federal Regulations which is published separately and revised annually.

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